

CONSULTATION AND
CO-OPERATION IN THE
BRITISH COMMONWEALTH

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CONSULTATION AND CO-OPERATION IN THE BRITISH COMMONWEALTH

A HANDBOOK ON THE METHODS AND
PRACTICE OF COMMUNICATION AND
CONSULTATION BETWEEN THE MEM-
BERS OF THE BRITISH COMMONWEALTH

OF NATIONS

CHECKED - 1963

Compiled by

GERALD E. H. PALMER

With an Introduction by

PROFESSOR A. BERRIEDALE KEITH

ON THE

CONSTITUTIONAL DEVELOPMENT OF
THE BRITISH EMPIRE IN REGARD TO
THE DOMINIONS AND INDIA FROM

1887 TO 1933

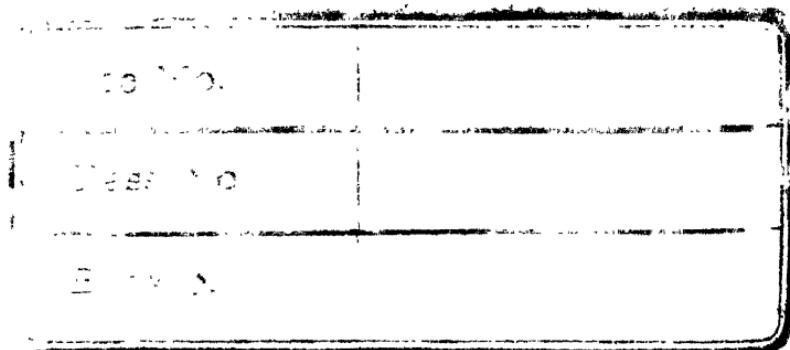


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TO
MY FATHER

PREFACE

THIS Handbook was originally prepared in draft form for the purpose of the British Commonwealth Relations Conference Committee which met at the Royal Institute of International Affairs in July, 1932. That Committee made provision for the arrangements for the Conference which was held in Toronto in September, 1933, by invitation of the Canadian Institute of International Affairs. *Inter alia*, the Committee recommended that a revised edition of the draft Handbook be prepared as an essential background to the discussions at the Conference and that part of the Agenda of the Conference should be the adoption of a final edition. The Conference decided that the Handbook should be published, in view of its usefulness to a wider public than those taking part in the Conference, and it is accordingly being issued as a companion volume to the report on the work of the Conference, which, edited by Professor Arnold J. Toynbee, has been published under the title of *British Commonwealth Relations: Proceedings of the First Unofficial Conference held at Toronto, 11th to 21st September, 1933*.

It has been the object of the compiler to limit the material of the Handbook to statements of fact and quotations from official documents. Thus, while it attempts to set out the principles on which the several Governments of the British Commonwealth have agreed to co-operate and to give some description of the machinery by which they do so, it refrains from attempting to assess those principles or to pass judgement on the adequacy of that machinery.

The method of preparing the volume has been as follows: a first draft was compiled at Chatham House in 1932 and copies were circulated in the autumn of that year to authorities in Great Britain and in each Dominion, with a request that they would undertake the work of revision and amplification. In Canada this task was carried out with the co-operation of the Hon. Newton W. Rowell under the general editorship of Mr. Escott Reid, the

Secretary of the Canadian Institute of International Affairs, who prepared a valuable and substantial collection of revised and additional material. The compiler is also indebted for valuable material which was received from a Committee of the Australian Institute of International Affairs, which sat in Melbourne under the chairmanship of Sir William Harrison Moore, with Mr. A. Stirling as Secretary, and from a similar Committee in Sydney under the chairmanship of Sir John Peden, with Mr. W. J. V. Windeyer and Mr. F. L. W. Wood as Secretaries. He wishes to thank also Senator F. S. Malan and Professor Eric Walker of South Africa and Mr. John J. Horgan of the Irish Free State for most useful information relative to those countries: and further thanks are due to a Committee, under the chairmanship of Diwan Bahadur Ramaswami Mudaliar, for its assistance with the sections relative to India.

Many members of Chatham House have made helpful suggestions and contributions. In particular, the greater part of Part II was prepared by Mr. R. C. M. Arnold—a portion being taken from his monograph on *Treaty-making Procedure*; and much of Part III was prepared by Mr. D. Baring.

The compiler is particularly grateful to Dr. F. G. Spurdle, who has been most painstaking in revising the work for the press, and has made some valuable additions to the text. He also wishes to express his grateful thanks to all those who have provided information, and to Miss Margaret E. Cleeve and the staff of the Publications Department of Chatham House, without whose help the production of this Handbook would not have been possible.

GERALD E. H. PALMER

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INTRODUCTION

THE CONSTITUTIONAL DEVELOPMENT OF THE BRITISH EMPIRE IN REGARD TO THE DOMINIONS AND INDIA FROM 1887 TO 1933

By PROFESSOR A. BERRIEDALE KEITH

I. THE DOMINIONS

WHEN the colonies which now form the Dominions met at the Colonial Conference summoned in 1887 in honour of Her Majesty's fifty years of a prosperous reign, their government accorded in essence with the scheme laid down in Lord Durham's famous report. His remedy for the disorders in Canada was the concession of wide autonomy in local affairs, subject to effective Imperial control in matters affecting other than local interests, and subordination to the British Government in all external issues, which that Government was to administer as a trustee for the interests of the Empire as a whole. Less than half a century has seen the whole structure completely remodelled; the Dominions now possess absolute autonomy in internal and external affairs alike as parts of a British Commonwealth, composed at present of six¹ full members, while like status has been promised to India.

This vital change has been effected by a long series of steps, marked in part by resolutions of the Colonial Conferences from 1887 to 1907 and the Imperial Conferences from 1911 to 1932. In large measure it has been accomplished in the traditional English form of constitutional conventions affecting the use of the royal prerogative or the statutory powers of the Crown, but legislation has also intervened, and the gains achieved have in some measure been summed up and consolidated in the Statute of Westminster, 1931. Of the steps of progress it is impossible to give a record based on chronology alone, and space suffices

¹ The cessation of the exercise in Newfoundland of Dominion status proposed by the Royal Commission of 1933 will, it is hoped, be temporary.

only to indicate the main heads of progress to the end now achieved. Advance first began, as was natural, in internal affairs, and these may be treated under the following heads.

I. CONSTITUTIONAL CHANGE. Lord Durham had reserved constitutional issues for Imperial control, and in 1887 that control existed unimpaired. The Canadian constitution was rigid; those of the five Australian colonies which enjoyed responsible government could be altered only by reserved bills which normally had to be laid before Parliament before sanction could be given, and, though conditions were less strict in the case of Newfoundland, New Zealand, and the Cape of Good Hope, change was impossible without British assent. But in 1890 a notable concession was made to Western Australia on the grant of responsible government; Parliament rejected a strong plea for the reservation of control over the colonial lands, and enacted the Constitution, prepared locally, without much hesitation; and in 1893 the colony of Natal was permitted to assume responsible government despite the paucity of the European population, and the future of the native population was virtually entrusted to its care. British encouragement was freely forthcoming in the following years to the project of Australian federation, and British pressure finally induced the inclusion of the reluctant Western Australia as an original member of the Commonwealth of Australia. Nor was exception taken to the demand by the colonies that the federation should have complete power to amend its own Constitution, in absolute divergence from the Canadian rule. The States in 1907 were relieved from the cumbrous conditions affecting their powers of constitutional change, and a simple code provided in lieu, under which Queensland was enabled in 1921-2 to abolish the upper chamber. Even more striking was the progress in South Africa, where the Crown Colonies of the Transvaal and the Orange River Colony were accorded responsible government in 1906-7 and the four colonies were formed in 1909 into a legislative union. Not only were the terms

of that union framed without British interference, save in the form of suggestions, but the British Parliament consented to the inclusion of clauses which denied membership of Parliament to non-Europeans and drastically limited the franchise in the case of non-Europeans, and to the right of the Union Parliament freely to amend the terms of that instrument. There was in fact little left for the Statute of Westminster to do for the Union; Canada declined the grant of increased power pending agreement with the provinces, and a like view was expressed by the Commonwealth of Australia and New Zealand, which, with Newfoundland, reserved the right to accept the Statute in whole or part, and so far have shown no inclination to take action under it.

In the case of the Irish Free State the tacit understandings, which regulated the relations of the British Government and Parliament and the Dominions, were converted into legal rules. Relations were regulated by articles for a treaty which gave the Free State the status of Canada, and the Constitution framed by the Constituent Assembly of the Free State was enacted also by the British Parliament. The Statute of Westminster gave the Free State unfettered power to repeal the British Act and left it bound only, if at all, by the restrictions laid down by the Constituent Assembly, which had subjected such legislation to the rule of conformity with the Treaty of 1921. In 1933, however, the Free State Parliament determined that it had power to legislate disregarding this restriction and to strike out the limitation from the Constitution; and on the strength of this view it deleted from the Constitution the oath required thereunder in accordance with the treaty to be taken by all Members of Parliament.

2. THE POSITION OF THE GOVERNOR-GENERAL OR GOVERNOR. In 1887 the Conference discussed in an interesting manner the status and functions of the Governor. It was clearly recognized that he had two distinct functions in regard to the government of each colony. (1) He was the head of the administration playing a part analogous to that

of the Queen in the United Kingdom. But it was admitted that, whereas the Queen had never during her reign refused to grant a dissolution of Parliament to a ministry which asked for it, the Governor had the right and even the duty not to grant a dissolution if he could find another ministry prepared to carry on the government in the event of the resignation of the ministry to which a dissolution was refused. Further, the Governor had a personal duty to decide questions of the grant of pardon to convicted murderers. (2) The Governor was the channel of communication with the British Government and its representative in the colony, and was bound to obey any orders given to him by that Government, even if they conflicted with the wishes of the Colonial Government. The position might be anomalous, but in New Zealand in 1892 the Government enunciated the doctrine that, if the Governor in supposed obedience to Imperial instructions refused to accept its advice to add members to the upper chamber, then its duty was to remain in office and address the Secretary of State to secure acceptance of its views, and this course was successfully adopted. In the same year the personal responsibility of the Governor was altered as regards pardon. In all cases he was normally to act on ministerial advice, but in cases where interests other than local interests might be affected, he was to take such considerations into account before making his decision. The older rule, however, remained for the South African colonies, and was maintained for the Union of South Africa and still applies to Newfoundland. The difficulty of a Governor who received divergent instructions from the Secretary of State and advice from ministers was painfully revealed in 1906, when the Government of Natal resigned on the issue of the postponement by the Governor of sentences imposed under martial law on natives. As no alternative ministry could be formed, the Secretary of State withdrew his instructions.

The requisite harmony between Governor and ministers was normally present, and by 1890 it had become recognized that the Colonial Government should be asked to

approve the selection of the Governor made by the British Government. The creation of the Irish Free State led to a further concession, for the Governor-General was chosen by the Free State Government and approved only by the Crown. Though occasionally criticism of the Imperial functions of the Governor-General had been voiced, it was only in 1926 that the issue of the Governor-General's position was seriously considered; and the immediate cause of discussion really arose from the action of the Governor-General of Canada, merely in his function as head of the Canadian Government, in refusing to grant a dissolution of Parliament to Mr. Mackenzie King and his subsequent grant of a dissolution to Mr. Meighen. On the defeat of Mr. Meighen at the general election, the issue was discussed at the Imperial Conference of 1926, with the result that it was made clear that the functions of the Governor-General should be confined to representation of the King to the exclusion of any functions on behalf of the British Government, unless indeed any Dominion preferred that the functions should remain combined. The assimilation of the position of the Governor-General so expressly to that of the King carried with it the implication that the British practice in matters of dissolution should be followed, and this principle was asserted and acted upon by the Governor-General of the Commonwealth of Australia in 1931. A logical sequel to the decision of 1926 was taken by the Imperial Conference in 1930, when it was laid down that in future the appointment of the Governor-General should rest on the authority of the Dominion Government concerned, and this was carried into effect in the case of the new Governors-General of Canada and the Commonwealth of Australia, whose Commissions were countersigned by the Dominion Prime Minister and not by the Secretary of State. A trace of the former practice remained in the sealing of the Commissions with the Signet, the seal of the Secretary of State, and, when new Letters Patent were issued for Canada in 1931, though issued at the request of the Dominion Government and on its authority, they were still passed under the Great Seal of the Realm on the

formal authority of the usual British warrant.¹ Nor were any substantial changes made in the Letters Patent or the Royal Instructions accompanying them.

The changed position of the Governor-General rendered it necessary for the British Government to provide itself with representation in the Dominions, and officers of the rank of High Commissioner were sent to Canada and the Union of South Africa, and promised to the Commonwealth of Australia; New Zealand and Newfoundland, on the other hand, preferred to maintain the Governor-General and Governor respectively as representatives of the British Government, while with the Irish Free State relations are conducted direct without the employment of any representative at Dublin. In 1932 the Irish Free State asserted successfully the right of the Government to secure the removal by the King from office of a Governor-General who was held by that Government to be a *persona non grata*. The decision was a very important one, because it revealed clearly the complete difference between the Governor-General's position and that of the Crown, the latter holding office by hereditary succession, the former at the pleasure of the Government of the day.

3. THE AGENTS-GENERAL AND HIGH COMMISSIONERS. The High Commissioner for Canada had been appointed by the Dominion Government mainly in order that he might fulfil duties at London analogous to those of the ambassador of a foreign State, and that with British aid he might negotiate commercial arrangements with foreign Powers. In this office Sir C. Tupper acted in many respects as a Minister Resident of Canada, speaking with much authority for the Dominion cabinet. Later, the office was rather concerned with commercial and financial questions, as were normally the Agents-General of New Zealand and the other colonies. High Commissioners for the Commonwealth of Australia and the Union of South Africa were created in due course, the same style was adopted for New Zealand, and the Irish Free State at once set up such an

¹ See Appendix A, pp. 232 ff., for further particulars.

office. At the Imperial Conference of 1911 Sir J. Ward suggested that the High Commissioners should become the channel of communication between the British and the Dominion Governments, but this proposal was not generally acceptable. In 1912, at Mr. Borden's instance, the British Government intimated that it would welcome the appointment of Dominion Ministers Resident in London for purposes of close contact, but effect was only given in a partial manner to this suggestion by Canada during the Great War, and for a time by Australia in 1932-3. The High Commissioners, however, have naturally attained greater importance as instruments of inter-communication since the change in the position of the Governors-General. But they are not systematically employed as the channel of communication between governments, for communications are normally exchanged direct between the Dominions Office, formally separated from the Colonial Office in 1925, and the Departments of External Affairs in Canada, the Commonwealth of Australia, the Union of South Africa, and the Irish Free State. On the other hand, the representative position of the High Commissioners was accorded recognition in 1931 by the grant to them of high precedence.

4. EXTRA-TERRITORIAL POWERS OF LEGISLATION. In 1891 the Privy Council definitely enunciated the important doctrine, which had already been put forward in the colonies, that a colonial legislature had normally no power to legislate so as to impose a penalty for acts done outside the limits of the colony. The extent and bearing of the rule were much discussed, but, while various modes of evasion or limitation of the doctrine found favour in the courts, it was on several occasions applied, especially in Australia and New Zealand, to invalidate legislation. On many matters, however, express authority to pass legislation with extra-territorial validity was given by the British Parliament, especially as regards control of military and air forces and of naval forces. A suggestion that the doctrine should not be held applicable to the Commonwealth of Australia on

its formation was negatived, but wider powers than usual were expressly conceded regarding merchant ships trading in Australia, fisheries beyond territorial limits, &c. Further legislation was rendered necessary by the advent of air navigation, and Canada in 1920 put forward a plea for the grant of wider powers. Prolonged delay followed, owing to the disadvantage of dealing with one aspect only of a complex situation, and it was not until the Statute of Westminster was framed in 1931 that the right of a Dominion to give its legislation extra-territorial operation was recognized. Legislation under this power was passed in Canada in 1933. In the Union of South Africa, however, the power had been held to exist in 1919 and to justify legislation for the mandated territory of South-West Africa, and this exercise of authority was never challenged in the courts.

5. BRITISH CONTROL OF COLONIAL LEGISLATION. By 1887 the control of the British Government over legislation by the colonies had ceased to be exercised in the crude form of disallowance of Colonial Acts. But the Governor had instructions binding him to reserve certain classes of bills, unless they contained suspending clauses, delaying their operation until they had received the approval of the Crown in Council, and the Governor's power was still in exercise. But intervention to the extent of final refusal of assent to reserved measures was rare; amendments might be suggested and a compromise reached. Where the interest concerned was purely local, Acts were left to their operation. In vain, by suggestions in Newfoundland that the credit of the colony might be impaired, was Mr. Chamberlain invited in 1897 to disallow the legislation providing for the transfer to private hands of the governmental railway and other important resources of the colony. In native races interest was still taken, but the attempt to control the Western Australian aborigines independently of the local Government was quickly abandoned in 1897 in deference to Sir J. Forrest's insistence that it must rest with the people of the colony to appreciate their duty to

their less-civilized fellow subjects; and the nominal reservation of personal authority to the Governor of Natal as Supreme Chief was never made actual in practice. In the Transvaal and the Orange River Colony also ministerial responsibility was accepted, and the same rule naturally was applied on its formation to the Union. New Zealand was left from 1870 by wise treatment to wipe out of the minds of the Maoris the painful memories of the earlier wars.

Questions of status raised difficulties, but by 1887 the British Government had conceded the right of the colonies to legalize the marriage of men with their deceased wives' sisters, content with warning the colonies that such unions between persons not domiciled in the colonies left the children illegitimate in England, and, even if the parties were domiciled, forbade the children to inherit English lands or titles. Colonial persistence indeed won the day, and such marriages were first validated as regards England for the colonies in 1906 and then made valid in 1907 in England itself. By 1890 freedom of divorce legislation was conceded, though persons divorced in a colony when they were not there domiciled are, even now, in the eyes of English law, not effectively divorced. Of far greater importance was immigration, for much more than local interest was affected. Chinese, Japanese, and British Indians caused apprehension to the colonies, evoking the White Australia policy, and the determined efforts of British Columbia to close itself to Orientals. Mr. Chamberlain at the Colonial Conference of 1897 demanded the co-operation of the colonies with the British Government in delicate handling of this dangerous problem, and the plan of exclusion by a language test was thereafter generally adopted with effective result. The final concession was made in 1907, when the newly created legislature of the Transvaal was allowed virtually to exclude Asiatics. But right to exclude was recognized even as regards emigrants from the United Kingdom, despite popular criticism of the drastic character of the powers of control taken by the Commonwealth of Australia in 1901 and Canada in 1910.

The Imperial Conference of 1917 recognized that each part of the Empire had an absolute right to regulate the composition of its population, and subsequent discussions in 1921 and 1923 confirmed this doctrine. These Conferences established also that it was for India by direct dealings with the Dominions to secure fair treatment for Indians therein resident, and in 1926-7 and 1932 important accords on this head lessened the tension between the Union of South Africa and India, due to the desire of the former to free herself as far as possible of the presence of an element which it was hard to assimilate and of India to secure as far as possible full civil rights for Indians lawfully domiciled in the Union.

Over trade policy control in general had been abrogated long before 1887. Differential duties were still disapproved, but, after the Ottawa Conference of 1894, the legal restrictions on their grant by the Australian colonies were formally removed. Nor was control of currency insisted upon. Where desired, branches of the royal mint were established by agreement, and aid afforded in the establishment of special Dominion currencies, though considerable loss was involved to the mint by repatriating British currency, the use of which was to be dispensed with.

It was, therefore, mainly a recognition of a *fait accompli* when the Imperial Conferences of 1926 and 1930 recommended the recognition of the right of any Dominion, which so desired, to eliminate from its Constitution the right of the Governor-General to reserve bills, and asserted the sole right of the Dominion Government to recommend what bills should be reserved and how they should be treated on reservation. One difficulty alone presented itself, arising from the fact that Dominion securities have been freely admitted to rank as trustee investments in the United Kingdom, and that one condition of such treatment has been the placing on record by the government which borrows that any Act affecting injuriously the security of the investment would properly be disallowed. This condition renders it for the time being impossible wholly to remove the power of disallowance while such loans are

outstanding. But the Irish Free State, which has no such loans, in 1933 removed from the Constitution both the right to reserve and that of the Crown to refuse assent to a reserved bill.

6. BRITISH LEGISLATION FOR THE COLONIES. In 1887 the doctrine still prevailed that in certain matters of common interest with more than local effect uniformity of legislation should be secured by Imperial Acts, especially when matters of foreign relations or shipping were concerned. In the main such legislation was so framed as to cause no difficulty for the colonies, and conflict arose only in a few cases. One of these was copyright, which for a time evoked a lively controversy between the British and Canadian Governments, but Sir W. Laurier did not care to press the point, and it was not until the necessity arose of passing fresh copyright legislation in the United Kingdom that the issue was at the initiative of the British Government raised afresh and examined by a subsidiary Imperial Conference. The result was the acceptance of a new Copyright Act, 1911, Dominion autonomy being fully asserted by the principle that it rested with each Dominion whether or not to adopt the Act with such detailed modifications as might be necessary.

Far greater importance attached to the issue of merchant shipping. The British Code was brought up to date in 1894, embodying the two rights conceded to the colonies in 1854 and 1869 to regulate their registered shipping and all vessels engaged in their coasting trade, while in other matters the Imperial Act normally applied. But the legal position was obscure, and proposals in Australia and New Zealand drastically to revise the terms of the Act of 1894 evoked a Merchant Shipping Conference in 1907, the results of which were approved by the Colonial Conference of that year. The Governments of the Empire then homologated the principles already contained in the Act of 1894, and the British Parliament continued to regulate shipping, save such shipping as was registered in the Dominions or vessels engaged in the coasting trade thereof, leaving these

subject to Dominion legislation. Some confusion arose from failure of action in the Dominions, and the issue was discussed by the Imperial Conferences of 1926 and 1930. The result was, in the interests of constitutional propriety, to terminate the practice of British legislation as paramount and to recognize the unfettered right of every Dominion to legislate on shipping matters with extra-territorial effect. But, to prevent fatal conflicts of authority, an important agreement¹ was signed in 1931 at the same time as the legal powers of the Dominions were freed, by the Statute of Westminster, from existing restrictions, including the necessity of express approval by the Crown even of Acts dealing with Dominion registered shipping and the coasting trade. The agreement contemplates fair treatment in all parts of the Commonwealth for shipping from other parts and concerted action in changes of law, but it is not cast in treaty form nor made legally binding either by British or Dominion legislation.

At the same time the Statute conferred on the Dominions full power to alter any British Act so far as it was part of the law of the Dominion, and it repealed, as regards the Dominions, the application to their legislation of the Colonial Laws Validity Act, 1865, under which no colonial legislature could pass legislation which would be effective as against any British Act or regulation made under such an Act applying to the colony in question. It was, of course, recognized that there were important fields, such as prize law, Admiralty jurisdiction, nationality, extradition, &c., in which uniform action should be observed, and it was provided that, with prior Dominion assent duly recited in the Act, enactments might still be passed by the British Parliament for the Dominions. Such Acts will be liable, however, to alteration by later Dominion legislation. To complete the liberation from British control, however formal, Acts dealing with Admiralty jurisdiction were freed from the restrictions as to reservation imposed by the Colonial Courts of Admiralty Act, 1890.

These powers so far apply to the federation of Canada,

¹ *Cmd. 3994.*

the Union of South Africa, and the Irish Free State, and the provinces of Canada have been granted exemption from the restrictions of the Colonial Laws Validity Act, but, like the federation, are bound by the British North America Acts; they are not, of course, granted extra-territorial power, for their legislation is essentially for the province concerned. The possibility of conflict of legislation of the several legislatures in the Commonwealth is now present, but conventions regulating the use of the powers now possessed will doubtless develop.

7. JUDICIAL APPEALS. In 1887 the right of the Crown in Council to admit appeals from any colonial court was unchallenged. Local laws or British Orders in Council regulated the conditions on which the local courts could permit appeals to proceed, but over and above these provisions the Judicial Committee of the Privy Council might grant special leave to appeal. Not until the framing of the Constitution of the Commonwealth of Australia was the question of restricting the right of appeal seriously considered. Then the framers of the Constitution, who followed the model of the United States Constitution, urged that the High Court should be made final arbiter of all cases. The issue was hotly contested in Australia itself; the British Government pointed out objections to so drastic a change, and finally the Constitution was altered in passing through Parliament to exclude only appeals in matters affecting the constitutional relations of the Commonwealth and the States or of the States *inter se*; such constitutional issues being reserved to the final jurisdiction of the High Court, though even in such cases the High Court might grant special permission for an appeal. Moreover, the Commonwealth Parliament might by reserved bill further curtail the right of appeal. For a time the system worked imperfectly, for it proved possible still to bring to the Privy Council from State Supreme Courts constitutional issues of the type reserved, but in 1907 this possibility, which had led to a conflict between the Privy Council and the High Court, was brought to an end by an Act of the

Commonwealth depriving the State Supreme Courts of power to hear such constitutional cases, and since then the High Court has exercised the function of final interpreter of the Commonwealth Constitution in accord with the intentions of the framers of that measure. On the other hand, the High Court has adopted since 1920 the principles of construction of the Constitution approved by the Privy Council in lieu of those based on American precedent.

In the case of the Union of South Africa an appeal was provided only from the Appellate Division of the Supreme Court, and then only by special leave of the Privy Council; such appeals are very sparingly allowed. In the case of the Irish Free State the British Government demanded the insertion of the right of appeal in the Constitution, but steps were taken by the Free State Parliament first to nullify the value of the grant of leave to appeal in those cases in which it was granted, and then to abolish absolutely the right in question. For this action legal sanction is found in the Statute of Westminster giving power to legislate in contravention of British Acts. Canada has in 1933 likewise exercised the power, but only in respect of criminal cases, but this term covers also appeals arising out of provincial Acts imposing penalties, and such Acts sometimes raise important constitutional issues, which thus cannot be determined by the Privy Council. But normally the Privy Council is the final arbiter of the meaning of the British North America Acts. Exception has been taken in Canada to the continuation of the appeal on the ground that it is slow, and by reason of its expense puts an unfair burden on poor litigants, that its existence implies a measure of inferiority in the capacity of Canadian courts, and that it deprives the Canadian Government of the incentive to strengthen the Supreme Court. But the arguments to the contrary have so far prevailed, the essential consideration being that it is desirable that a federal constitution, which involves delicate issues of provincial and federal relations and questions of minority rights, should be finally interpreted in an absolutely impartial atmosphere.

Efforts have from time to time been made since 1900 to secure acceptance of the view that the Privy Council and the House of Lords should be fused into a single tribunal, on which Dominion judges would sit, to act as the final court of appeal for the United Kingdom as well as all other parts of the Commonwealth. These suggestions have failed to receive general support, but since 1895 a series of Acts has provided for the representation on the Committee of the judiciaries of the Dominions, all judges of their highest courts who are Privy Councillors being now, without limit of numbers, members of that Committee. But, as no salaries are provided by the British Parliament for such judges, they can sit only occasionally to hear appeals. As a result, however, of the Colonial Conference of 1907 improvements have been made in the conditions regulating appeals, and Dominion courts have the power to grant special leave to appeal when they think fit, thus rendering it unnecessary to apply to the Privy Council in the first instance.

8. DEFENCE. Long before 1887 all direct control over colonial military forces had been abandoned by the British Government, whose functions became restricted to advice and assistance in the form of the loan of duly qualified officers who, however, fell wholly under the power of the local government when serving. The terms of the Army Act applied to colonial forces only when outside the colonies and to such extent as appeared desirable to colonial legislatures, which were themselves empowered to make laws effective in respect of their forces outside their own territorial limits. The employment, however, of military forces outside colonial limits could only take place with the authority of the British Government. In regard to naval defence colonial activities were limited under British legislation of 1865 to the provision of local defence vessels which might be placed under the control of the British Government for general service in the event of war or other crisis. While Imperial military forces were no longer maintained save where Imperial interests demanded their

presence, as at Halifax and Esquimalt and in South Africa, the naval defence of the colonies rested essentially on the British Navy. The Conference of 1887 recognized that, if further provision for Australasian defence were desired than was held essential by the British Government, payment towards the cost should be offered, and the plan of the grant of subsidies by the Australian colonies and New Zealand was finally accepted and continued in operation by the Colonial Conferences in 1897 and 1902. Australia, however, now under the Commonwealth Government, evinced the desire to create a local force, and the British Government acquiesced. But in 1909 a Naval and Military Defence Conference, called into being as the result of anxiety prevailing in the Empire on account of the European situation, determined on the development of naval activity on a much larger scale by Australia, New Zealand, and Canada. The position and functions of Dominions navies were defined by the Imperial Conference of 1911, which definitely assigned them spheres of action. Canada and Australia were to control their own fleets in time of peace, receiving British aid in the loan of men and officers and the advantages of Admiralty experience; in time of war they were to be at liberty to transfer control to the Admiralty as the only means of securing effective co-ordination of effort, while New Zealand under legislation of 1913 was prepared to transfer control immediately on the outbreak of war. Before the Canadian proposal could be made effective, war broke out and the small Canadian force, as well as the much more important Australian fleet, was placed under Admiralty control. A proposal by the Admiralty in 1918 that there should in future be a single fleet under unified control was, however, rejected by the Dominions, and after the War the system of independent fleet units was resumed, but Canada reduced her naval forces to a minimum, Australia was compelled to limit expenditure, and both Dominions found themselves unable to contribute towards the cost of the Admiralty project of 1923 to create a naval base at Singapore with a special view to Australasian defence. New

Zealand, on the other hand, gave a substantial contribution. The Union of South Africa, which had up to 1921 continued the subsidies which the Cape and Natal, when colonies, had voted, in that year discontinued the grant, undertaking instead certain expenditure on coastal defence and on the development of the local branch of the Royal Naval Volunteer Reserve. Though control is not unified, it was definitely decided at the Washington Conference of 1921 that the whole of the forces of the Commonwealth must be regarded as a unit for purposes of allocation of naval strength. Effective arrangements were made by the Naval Discipline (Dominion Naval Forces) Act, 1911, under which, taken in conjunction with Dominion legislation, co-operation in training can take place between British and Dominion forces, and interchanges of ships can be carried out, thus affording the officers of the small Dominion forces the necessary opportunities for learning the principles of large-scale operations.

The anxiety of 1909 produced in military matters a movement of great importance in Australia and New Zealand which, under the influence of visits by Lord Kitchener, developed systems of compulsory training and service for home defence. In the Great War Dominion military forces were readily placed at the disposal of the British Government, or at the suggestion of that Government employed to reduce the German oversea possessions. While the supreme control of the forces placed under British control thus passed from the Dominion Governments, a large measure of autonomy in minor matters was conceded, and towards the later part of the War the Canadian Division was exempt from any but the control of the chief command of the Allied forces. Moreover, the Imperial War Cabinets of 1917 and 1918 furnished the means by which the Dominion Governments were able to take part in the decision taken by the British Government as to the employment of the forces of the Empire as a whole. On the termination of the War the former arrangements were revived, but by 1933 compulsory service had lapsed in Australia and New Zealand, voluntary

methods being substituted, largely under pressure of economic conditions. The Union of South Africa instituted in 1912 a system which contemplates the possibility of compulsory training, but which so far has been worked on a voluntary basis.

The legislation necessary for raising and maintaining forces during the War was enacted for each Dominion by its own Parliament without any pressure from the British Government. Canada, Newfoundland, and New Zealand imposed compulsory service overseas, Australia on referenda rejected such action.

For purposes of advising Colonial Governments and of dealing with colonial defence issues, a Colonial Defence Committee had been set up in 1885, but a more important innovation was made in 1901, when the Imperial Defence Committee was created by Mr. Balfour. An Imperial General Staff was created in 1906, and at the Colonial Conference of 1907 the services of both the Committee and the Staff were placed at the disposal of the Colonial Governments if they desired to make use of them, and this advice was repeated at the Conferences of 1909 and 1911, when it was hoped that each Dominion would set up some form of Defence Council and create an analogue of the General Staff to consult freely with the Imperial General Staff. The development of these projects was retarded by the War, and the system has not so far been developed on the lines proposed. Dominion Ministers, however, have ready access to the Defence Committee, and places are available for Dominion officers at the Imperial Defence College, created in 1926.

On one point the passing of the Statute of Westminster has necessitated legislation. Assertion of Dominion autonomy renders it necessary that, in those Dominions to which the Statute applies, provision for immunity from local jurisdiction of British forces if there stationed should so far as proper be accorded by Dominion Act, and such provision was made in 1933 by the Parliaments of Canada and the Union of South Africa. Like immunity for Dominion forces, if visiting the United Kingdom or other

parts of the Empire under United Kingdom control, is afforded by a British Act of 1933.

The Irish Free State stands in a special position as regards defence. In the first instance under the Treaty of 1921 coastal defence was assigned to the British Government, and, though the Free State might now claim the right to take over that burden, it has refrained from acting in this direction. Military and air defence are under local control, but the number of the forces is not to exceed the proportion of the British forces defined by the ratio between the population of Ireland and of the United Kingdom. The British Government is expressly given certain facilities for coastal defence during peace, and may require such facilities as it deems necessary in case of war.

The Free State Constitution lays down the legal principle that, save for defence in the case of actual invasion, the sanction of Parliament is necessary before active participation occurs in any war. This enunciates a constitutional doctrine acted on by the Dominion Governments during the Great War and more explicitly enunciated in 1922 on the occasion of the request from the British Government for assurances of support in the event of further hostilities with Turkey.

9. NATIONALITY AND ALLEGIANCE. In 1887 there were two classes of British subjects in the colonies: those who were entitled to rank as British subjects also in the United Kingdom, and those whose naturalization was local, and who were aliens when outside colonial limits. No means existed under which such persons could acquire recognition as British in the United Kingdom, though they were accorded protection by the British Government when in foreign countries practically to the same extent as persons naturalized in the United Kingdom. The disadvantage of this limited nationality became felt very strongly when large numbers of Americans settled in Canada and became Canadian British subjects. Accordingly, after full consideration by the Imperial Conference of 1911 and earlier Conferences, the British Government secured in 1914 the

passage of the British Nationality and Status of Aliens Act, 1914, which defined for the whole Empire the conditions conferring the status of a natural born British subject, and provided a system by which naturalization in any part of the Empire, if carried out subject to conditions similar to those laid down in the United Kingdom, would be effective in other parts of the Empire. But this system of naturalization was made dependent on its acceptance by Dominion legislation, which in due course was passed in every Dominion save the Irish Free State. Naturalization not given under these conditions still has only local effect. It proved necessary with Dominion assent to amend the Act on several occasions up to 1933, and the Imperial Conference of 1930 stressed the importance of the maintenance of a common nationality throughout the Commonwealth, to be maintained under the new system by legislation in each Dominion on similar lines after agreement with the other parts of the Commonwealth.

Within this general nationality, Canada was the first to create a class of Canadian nationals in 1920 to meet the difficulty raised by the separate membership of Canada in the organization of the Permanent Court of International Justice. For this purpose use was made of the definition of Canadian citizenship invented in 1910 for the purpose of distinguishing those persons whose attachment to Canada was such as to entitle them to re-entry without complying with the immigration regulations. In the Irish Free State Constitution of 1922 a new departure was made, for not only were citizens defined in a restrictive and admittedly incomplete manner—not yet extended—but the franchise and certain other rights were confined to them, to the exclusion of British subjects not being citizens. The Union of South Africa also created a class of nationals in 1927, and in re-defining the conditions of the franchise in 1931 it made the franchise depend on the possession of this character.

The other Dominions, without providing for special classes of nationals, have re-enacted the general terms of the British Acts, thus asserting their autonomy in this

issue. So far the classes of citizens or nationals are virtually all included in the general category of British subjects.

All British subjects, wherever they may be, are in the King's allegiance, and all persons on British territory owe local allegiance under the common law. This allegiance is not dependent on taking any oath, and oaths in fact are normally restricted to holders of certain more important offices. The deletion of the oath prescribed by the Treaty of 1921 to be taken by members of the Irish Free State Parliament in 1933 had, therefore, no bearing on the allegiance of the members in question.

In external relations the position of the colonies in 1887 was simple. They had no existence for purposes of international law as distinct units, but they were covered by the international personality of the British Crown. The Crown acted on the advice of the British Government, but that Government had laid down definite principles affecting colonial interests. General foreign relations were reserved with colonial acquiescence for British control entirely, but any issue which had special colonial interest must be made a matter of discussion with the colony. Newfoundland had been promised in 1857 that no concessions to foreign Powers would be made without consultation, and special arrangements in the interests of Canadian trade had been made with the United States in 1854 and 1871, the Governor-General in the former case, the Prime Minister in the latter case, being made a plenipotentiary for the purpose. Moreover, while the British Government still insisted that there should be no differential tariffs as a general rule, it had given in 1873 permission, which the Australasian colonies failed to use, for reciprocity within that group, and from 1879 it was willing to give any colony the right not to adhere to a general treaty of commerce made by the Crown, and to assist it in securing a special arrangement for itself, a colonial delegate being associated with the British plenipotentiary for the negotiation if desired.

The first pressure for change came from the movement

for protection with Imperial preference as a general policy for the Empire, which was pressed by the colonial delegates at a Conference held at Ottawa in 1894, when stress was laid on the fact that the colonies were precluded from giving, even if they wished, any effective British preference since it would have to be granted also to Belgium and the German *Zollverein* under treaties of 1862 and 1865, and therefore to all countries with which treaties providing for most-favoured-nation treatment existed. The British Government was not in 1895 willing to consider preference and protection, but it made certain concessions. (1) While it negatived the suggestion that the colonies could be conceded the right to make treaties independently of the United Kingdom, it was prepared to negotiate separate treaties for them, with the aid of colonial representatives who could carry out the main part of the negotiation, so long as the final treaty was signed by the British representative with the approval of the British Government. (2) Such agreements would be ratified after approval by both governments, the responsibility lying with the colonial government to secure any legislation necessary to allow of effect being given to the treaty. (3) Any concessions made to any foreign country must be extended unconditionally to the rest of the Empire, as a mark of Imperial solidarity. (4) No colony should accept from any foreign country a concession which would inflict serious disadvantage on another colony. Progress under these principles was slow, but a treaty for Canada with France was achieved in 1893, while Newfoundland in 1892 was refused permission to accept from the United States terms which would have injured Canadian trade. In 1907 a further concession was made, for Canadian negotiators were permitted to negotiate without British aid a treaty with France, the British control being asserted only by the requirement of signature by the British representative in France, and the scrutiny of the treaty by the British Government before ratification.

For various reasons this procedure was regarded by Canada as rather cumbrous, and in 1910-11 several

negotiations were carried on with consular officers of foreign Powers direct by the Canadian Government, culminating in a visit by Canadian Ministers to Washington, where, after being introduced formally to the State Department by the British Ambassador, they concluded with the United States Government an agreement, not treated as strictly a treaty, for a measure of trade reciprocity to be effected by legislation in either country. Opposition developed in Canada to the terms conceded, and the Government was defeated when it appealed to the country for a mandate on this issue. The new Prime Minister did not repeat this policy, but contemplated entering into closer relations with the British Government by stationing a Resident Minister in London who would secure contact with the British Government in all matters of foreign and Imperial policy, including defence. His attempt, however, to secure an appropriation of thirty-five million dollars as an immediate contribution to the enlargement of the British Navy failed in the Senate, and his plans had not been carried into effect when the Great War started. A Canadian Minister then maintained contact, being placed in control of matters affecting the overseas forces of Canada, and Mr. (later Sir R.) Borden, Mr. W. F. Massey for New Zealand, and Mr. W. M. Hughes for Australia visited the United Kingdom to discuss matters with the British Cabinet. In 1917 co-operation was placed on a more effective basis by the creation of the Imperial War Cabinet, which was supplemented for less important issues by the Imperial War Conference. The Cabinet differed from an ordinary British Cabinet in essential respects of form. The British Prime Minister presided, but only by courtesy; the members had no common responsibility, and decisions arrived at were binding only on those who agreed to them, and were carried out by these members so far as their colleagues in the Dominions and their Parliaments approved. But the fact that the Dominion naval and military forces were serving under supreme British control rendered this point of minor importance for practical purposes. By a natural transition,

when peace became imminent in 1918, the War Cabinet transformed itself into the British Empire peace delegation at Paris.

At this point the separate existence of the Dominions was asserted by the Canadian Government with the support of Mr. Hughes, General Botha, and Mr. Massey. It was insisted that the Dominions should be given a place at the Conference equal to that of the minor Powers, seeing that they had rendered far greater services to the Allied cause than several of these Powers. After some difficulty the demand was recognized as just by the Principal Allied and Associated Powers, and voting rights at plenary sessions were conceded. Much more valuable, however, in practice was the acceptance of the principle that the Dominions should be represented on the British Empire delegation in rotation, and that the decisions of that delegation and of the Prime Minister representing it should be taken after discussion with the Dominion representatives. A vital outcome of this arrangement was its perpetuation in the Constitution of the League of Nations. The British Empire was given a permanent seat on the Council with membership of the League, each of the Dominions—save Newfoundland—was admitted as a member, and the right of a Dominion to election to the Council, despite its membership of the British Empire, was expressly admitted. The assertion of Dominion personality was completed by the separate signature for the Dominions of the treaties of peace, and the delay of ratification until approval had been accorded by the Dominion Parliaments no less than that of the United Kingdom.

The Dominions immediately developed their distinct membership of the League by asserting their independence in that respect of British control. While their representatives at Paris had been duly appointed plenipotentiaries by the King on the advice of the British Government, their delegates to the League Assembly were accredited by their own governments, and conventions arrived at under the procedure of the Labour organization of the League were ratified, when accepted, by each Dominion Govern-

ment, not by the King. No obligation to consult the British Government as to the attitude to be adopted on disputed issues was recognized, and on several important issues the Dominions or some of them were found voting against views of the British Government. In 1927 the full recognition of their distinct status was achieved in the election of Canada to membership of the Council for three years, a precedent followed in 1930 and 1933.

Sir R. Borden, however, did not propose that the separate character of the Dominions should be confined within the limits of League action. He obtained in 1920 from the British Government agreement to the distinct representation of the Dominion at Washington, the Minister there to work in close conjunction with the British Ambassador and to take charge of the office when the latter was absent. This plan was justified by the special importance of Canadian issues in the relations of the British Government and the United States. It was not, however, immediately acted upon, and the issue presented itself in a new form in 1923 when a treaty regarding the halibut fisheries in the North Pacific was arranged, and when the Canadian Government desired that it should be signed only by the Canadian Minister, who in fact negotiated it. This was a departure from the principle laid down in 1907, but on the other hand the treaty would clearly have been signed by the Canadian Minister at Washington alone, had such an appointment been made. This consideration prevailed, and the King's ratification was later duly accorded at the request of the Dominion Government. It was, however, left for the Irish Free State to demand and receive the same right as that given to Canada in 1920, and in 1924 an Irish Free State Minister Plenipotentiary was received at Washington, to be followed by a similar appointment in the case of Canada after the Imperial Conference of 1926. The idea, however, that the Canadian Minister should act for the Ambassador was now dropped; it was obviously open to criticism by those Dominions which continued to look to the Ambassador to represent their interests. The United States now

reciprocated by accrediting Ministers to Ottawa and Dublin, and representation has since been extended by Canada to Tokyo and Paris; the Irish Free State has relations with France, Germany, Belgium, and the Vatican; the Union of South Africa with the United States, Holland, Italy, and Portugal. The Imperial Conference of 1926 approved the system and at the same time stressed the advantages of co-operation. The services of the British Diplomatic Service are available in all cases where separate legations do not exist; where they do, questions affecting more than one part of the Commonwealth should be dealt with in discussions between the representatives of the several governments and their own governments. In all cases the agreement by the foreign Power to accept representation was formally secured by the British Government. The appointments are made by the government concerned, but the letter of credence is signed by the King, and in the case of the Irish Free State no British seal is used, thus excluding the British Government from any share in the formal action.

The breach in the unity of control of foreign relations necessitated consideration by the Imperial Conference of the mode in which harmony could be secured. A unitary system of action by representatives of all parts of the Commonwealth co-operating had been followed at Paris, and it was also adopted at Washington in 1921-2, for limitation of armaments could be agreed upon only for the whole of the Commonwealth. Similarly unity was necessary at the London Naval Conference of 1930. But in other cases unity might be unnecessary; and the Conferences of 1923 and 1926 evolved certain principles. Any part of the Empire may negotiate with a foreign Power, but it should inform the other parts of its intention so to do, in order that any part affected may offer observations or ask to participate in the negotiations. Consultation between governments participating should be effective, and other governments should be informed of points arising in which they may be interested. No part can impose any active obligation by treaty on any other part. Treaties should be

signed specially for the parts affected, either by their own plenipotentiaries or by the plenipotentiaries of another part at the request of the government concerned. Ratification requires the assent of all parts affected. Where all parts must be bound, they must be represented directly or indirectly and must approve ratification. No effort was made to define what treaties fell under the last category, but the fact that the Locarno Pact of 1925 was negotiated and signed for the United Kingdom Government alone indicates the limited application of the doctrine of unity. Moreover, acceptance of the 'Optional Clause' of the Statute of the Permanent Court of International Justice by all parts has been accompanied by the Irish Free State refusing to adopt the reservations made by the United Kingdom and the other Dominions, and the Union of South Africa has not accepted the General Act of 1928 for the Pacific Settlement of International Disputes.

Up to 1931 a certain measure of unity in form was retained, because the negotiation and ratification of treaties involved the issue of full powers and instruments of ratification under the Great Seal of the Realm, which was affixed on the authority of sign manual warrants countersigned by the Secretary of State for Foreign Affairs. In that year, however, the Irish Free State obtained by direct communication with the King authority to use a new seal which is under the sole control of the Irish Free State Government, thus eliminating any British intervention, and in 1934 a like arrangement was made for the Union of South Africa. The Irish Free State by its action has definitely established the rule that the British Government has no *locus standi* in regard to its action in the field of foreign affairs. It is noteworthy that this drastic change in Commonwealth relations was carried out without any discussion in the British Parliament or intimation by the British Government of the change.

Consular services have only in minor degree yet been established, by the Union of South Africa at Lorenço Marques and at Hamburg, and by the Irish Free State in the United States. But it is of constitutional importance

that by resolution of the Imperial Conference of 1926 the countersignature of consular exequaturs was handed over to Dominion Ministers instead of the Secretary of State for Foreign Affairs. British consular officers render services to Dominion British subjects as usual, and recognition is accorded to passports issued to such subjects under the authority of the Dominion Governments.

Apart from international agreements of treaty type the Conference of 1923 acknowledged the legitimacy of inter-governmental agreements not concluded in the name of the King, but suggested that such agreements should be resorted to only in matters not political in character. This rule appears to have been generally followed.

A further development of Dominion autonomy was afforded by the decision of the Principal Allied and Associated Powers to allow the Dominion Governments to receive mandates, South-West Africa being allocated to the Union of South Africa, Samoa to New Zealand, New Guinea to the Commonwealth of Australia, while Nauru, under mandate to the Empire, is by agreement administered by Australia. In their capacity as mandatories, as in other matters falling within the scope of the League's activities, the Dominions have from the first acted in complete independence of the British Government. This, of course, has not excluded common action when desired, as when they united with the British Government in resisting what they deemed undue demands for information made by the Permanent Mandates Commission in 1926. The Government of the Union of South Africa has been engaged in discussion with the League Council regarding the extent and character of its authority, but it has disclaimed possessing sovereignty in the full sense. On the other hand, it has, apparently with the assent of the League and by agreement with the German Government, extended British nationality in the Union and the mandated territory to the great mass of German residents there, and it has created a form of government somewhat analogous to the provincial type of the Union. Transfer to provincial status has been declared to be the purpose of the Union Government, but the assent

of the League Council is necessary for effecting annexation, and even provincial status is opposed by German elements in the territory.

To define with accuracy the character of relations between the United Kingdom and the Dominions was attempted in 1926 when the Imperial Conference held that 'they are autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations'.¹ The interpretation of this dictum was rendered more difficult by insistence also on the distinction between equality in status and identity of function, but a most important principle was laid down in respect of treaties concluded under League auspices. The question had arisen whether these treaties applied to the members of the Commonwealth *inter se*, and it was ruled that they did not so apply unless special arrangements were made to that effect, and it was recommended that such treaties should in future be concluded in the name of the King and not in that of the States Members of the League, in order that misunderstanding might be avoided. This resolution was clearly motived by the controversy which had been carried on between the British and the Irish Free State Governments in 1924 as to the necessity of the registration with the League of Nations of the Treaty of 1921 between the two governments. The Free State contended that such an agreement was an international engagement, invalid unless registered; the British Government that the Covenant of the League and conventions concluded under its auspices had no application between parts of the Commonwealth. Though the Irish Free State seems to have acquiesced in the resolution, its view that the relations between the Free State and the United Kingdom are international was again expressed in its acceptance of the 'Optional Clause' of the Statute of the Permanent Court and of the General Act of 1928 for the Pacific Settlement of International Disputes.

¹ *Cmd. 2768*, p. 14.

In both cases it refused to exclude from the jurisdiction of the tribunal disputes between it and other members of the Commonwealth, a reservation made by the United Kingdom and the Dominions which accepted these instruments. In the same way in 1932-3 the Free State declined to accept the jurisdiction of an Empire tribunal of the type suggested by the Imperial Conference of 1930 for the decision of its disagreements over annuity and other payments with the United Kingdom, and demanded recourse to an international tribunal of some kind. The Union of South Africa, while reserving from the sphere of the Permanent Court disputes with other parts of the Commonwealth, has expressly done so on the ground not of legal necessity but of propriety.

Further light on the character of the relationship is thrown by the claim made in the Union of South Africa that the Union possesses the right to remain neutral in a war declared by the King on the advice of the British Government, a view shared by the Irish Free State, subject to the doubt whether any foreign Power would recognize such neutrality in view of the facilities for defence stipulated for by the United Kingdom in the Treaty of 1921. No pronouncement has been made on these issues by the Imperial Conference, and the fact that the Dominions are members of the League of Nations and signatories of the Briand-Kellogg Pact of 1928 for the renunciation of war as an instrument of national policy has rendered further definition of the issue academic. The right of secession has been claimed in the Union of South Africa as inherent in Dominion status, but the Statute of Westminster in its preamble demands the assent of all the Dominion Parliaments as well as that of the United Kingdom for any change in the succession to the throne, so that presumably secession must be a matter of arrangement and is not legally possible by unilateral action. The constitutional relations, therefore, of the Commonwealth appear to be those of a loose confederation, whose members are mainly bound by ill-defined and elastic conventional understandings based on a common allegiance.

II. INDIA

In 1887 no breach had been made in the system of benevolent autocracy under which both British India and the Indian States were governed. The doctrine prevailed that the only possible system of government was from above; there must, of course, be responsibility, but that responsibility could be only to the British Parliament. This meant that Indian affairs must be controlled absolutely by the Secretary of State in Council, the Council being so constituted as to furnish that element of trained opinion and actual experience of Indian government which would enable the Minister to deal on effective terms with the weight and knowledge of the Government of India. The result was a system highly centralized, for the Government of India was under detailed control from the India Office, and it had, therefore, to exercise a like control over the provincial governments, though, since Lord Mayo's viceroyalty, some slight discretion in financial matters had been accorded. Even local government, despite the benevolent initiatives of Lord Ripon, was essentially under official control, justified in the interests of financial economy, of honesty, and of efficiency, urgently demanded by the necessity in a poor country of turning to the best purpose the scanty funds available. The more important Indian States preserved in internal affairs a very wide autonomy, but the British Crown as the paramount Power could intervene to prevent gross misrule, and in many ways it was active in working for the improvement of administration, economy in the use of public funds, and the welfare of the subjects of the States.

It followed from the principles of the system that the legislatures, which had been reconstituted under legislation of 1861 both for the central and the provincial governments, were restricted purely to the function of considering and passing laws, their constitution as nominated bodies with a predominant official element ensuring that, while they could help the administration to frame wise measures, they could not defeat any measure desired by the several

governments with the authority of the India Office. The first change of importance was achieved after most elaborate investigation in 1892, and it was of the most limited kind. Permission was given for the discussion of the annual financial statement of each government, and for the asking of questions, under severe restrictions, and subject to the rule that no motion could be moved in respect of the financial statement or the answer to any question. The Councils were enlarged, and, though the principle of nomination was still adhered to, permission was given under which it was possible for nominations to be given to persons put forward by such bodies as local authorities, chambers of commerce, or universities. In 1909, after most careful consideration, further concessions were made, but without any purpose of introducing parliamentary institutions which Lord Morley believed unsuited to India. It was his desire and that of Lord Minto to enlist in support of the various administrations the active co-operation of the aristocratic and landed classes, the mercantile community, and the intelligentsia of India. The reforms increased the number of members of the Councils considerably, and provided definitely for formal election of a proportion of the non-official element, so that each Council in future contained, in addition to the head of the Government and the Executive Council (if any), nominated officials, nominated non-officials, and elected non-officials. In the provinces non-officials were allowed to be in a majority. The right to ask supplementary questions was conceded, and resolutions could be moved not merely on the financial statement but also on any matter of public interest; these recommendations, even if carried, need not be acted upon by the governments, but in fact they always received careful consideration and in certain cases were accepted in whole or part. At the same time, for the purpose of associating Indians more closely with the instruments of final control in India and the United Kingdom two Indians were appointed in 1907 members of the Secretary of State's Council, and in 1909 Mr. Sinha was made legal member of the Governor-General's Council.

The reforms left untouched the problem of unrest in Bengal, created by the separation of Bengal into two provinces in 1905 on important grounds of administrative efficiency under Lord Curzon's régime; but in 1912 an effort was made to solve that problem by the decision to transfer the headquarters of the central government from Calcutta to Delhi, the imperial capital of the Moguls. Bengal was reconstituted as a province predominantly of Bengali population; Assam was created as a distinct, more or less homogeneous, province; and a new province, Bihar and Orissa, was set up. At the same time the Government of India insisted that it envisaged the future of India as the development of provincial autonomy, the central government intervening only to prevent misgovernment, and dealing in general mainly with Imperial issues.

Whatever might have been the fate of the Morley-Minto reforms under more normal circumstances, it was impossible that they should be regarded as satisfactory by India under the conditions created by the Great War, during which India rendered great services to the common cause. Discussions in India resulted in definite proposals being made in 1916 by the Indian National Congress and the All-India Moslem League which envisaged the transfer to Indian control of Indian government with the exception of military matters and the foreign and political relations of India, including the negotiation of treaties and the making of war and peace. It is noteworthy that, while demanding that the legislatures, central and provincial, should be largely elective, the reformers conceded that the executives ought not to be dependent on the legislatures for their term of office, and that the executive government, while it might be forced to carry out resolutions of the legislature in the long run, would nevertheless enjoy considerable power of delaying action.

The governmental response was not ungenerous. On 20th August, 1917, Mr. Montagu announced that it was the policy of the British Government to increase the association of Indians in every branch of the administration and the gradual development of self-governing institu-

tions with a view to the progressive realization of responsible government in India as part of the British Empire. Mr. Montagu visited India to mature a programme, and his discussions with the Viceroy resulted in the Montagu-Chelmsford Report, which, after full consideration of the plans of the Government by a Joint Select Committee, ended in the passing of the Government of India Act, 1919. The scheme of the Act was simple. It accepted the view that final responsibility for India must still rest with Parliament, and that there could for the time being be no introduction of ministerial responsibility in the central government. Nevertheless, the power of Indian opinion to influence that government was to be increased by the reconstitution of the legislature into two houses, of which the lower was to be at least five-sevenths elective and of the nominated members one-third were to be non-official, while in the upper house not more than twenty of the sixty members might be officials.

In the provinces the unicameral legislatures were enlarged and the experiment of responsible government was made under careful safeguards. The idea of entrusting the whole business of a province to ministers was rejected; instead certain subjects were marked out as provincial in distinction from central, and within this group a further division was made. Those issues which vitally concerned the administration of the province and its financial solvency were reserved for the control of the Governor in Executive Council, under the final authority of the Secretary of State exercised through the Governor-General. Such reserved topics included irrigation, land revenue administration, famine relief, forests (save in Bombay and Burma), administration of justice, police, prisons, borrowing of money, control of all-India and provincial services, and audit. On the other hand, to the Governor, acting with the advice of a minister or ministers, were entrusted transferred matters, including local government, agriculture, fisheries, public health, public works, education other than European and Anglo-Indian, religious and charitable institutions, and development of industries.

In the sphere of ministerial action the government was in large measure to be subject to the control of the legislatures, which were reconstituted on the basis of at least 70 per cent. elected and not more than 20 per cent. official members, and no legislation on such matters could be carried over the head of the legislature. But the Governor might in case of emergency certify and authorize such expenditure as he held necessary for the safety and tranquillity of the province or for carrying on any department. The legislature, therefore, had no power by refusing supplies to coerce the administration. In reserved matters the legislature was allowed the right to vote the grants proposed by the Governor and to reduce them, but the Governor could restore omissions if he thought necessary, and by certifying bills on reserved topics could enact them over the head of the legislature. Certain payments, such as those for interest charges and for officers appointed by the Secretary of State in Council, were exempted from control by the legislature. To the Governor belonged the right to allocate finance as between the two parts of the government.

In practice, apart from the difficulties due to refusal in certain cases of co-operation by the elected members or some of them, the system proved incapable of developing ministerial responsibility to the extent hoped for by the authors of the scheme. The powers of the Governor with his Executive Council tended to overshadow those of the ministers; ministers seldom developed effective solidarity as a cabinet, acting rather as advisers in respect of their special spheres of action; in some cases it was difficult to find in the legislatures any stable grouping of sections on which to found an effective ministry, and a minority ministry might, if it secured the support of the official bloc, hold power. Pressure of financial conditions rendered close control by the Governor over any proposals involving expenditure or raising fresh revenue essential. Ministers, therefore, had scant opportunity of developing that sense of responsibility which is derived from the necessity of securing by their influence in the legislature the balancing

of the budget by prudent limitation of expenditure and the imposition of necessary taxation.

In the central government, too, the absence of any responsibility inevitably tended to engender the practice of irresponsible criticism of the administration. Over legislation and finance alike final powers of action were accorded to the Governor-General, though normally it was found unnecessary to make use of this special authority. In addition the Governor-General retained power to make, in an emergency, ordinances valid for a period of six months and this power was used on a number of occasions when special measures were urgently required to cope with anarchical conspiracy or the civil disobedience movement. These ordinances have in a number of cases now been replaced by Acts passed by the Central and Provincial Legislatures which, as at present composed, realize that anarchy is a most dangerous enemy to reform. In other cases the ordinances have been allowed to lapse, if it was found that the powers which they conferred were no longer required.

It was inevitable that, apart from those elements in India which declined co-operation, there should arise demands from the legislatures for wider authority, and, though in the Act of 1919 Parliament had planned that an investigation into the progress made should not take place until ten years' experience had been gained, the inquiry was accelerated, and a Commission under Sir John Simon presented in 1930 a report of the highest value. Its essential principles were the grant of provincial autonomy, with the creation (for those subjects allocated to the provinces) of ministerial responsibility of the normal type, even the administration of justice and police being placed under ministerial control as an essential condition of true self-government. Safeguards were to be presented by special powers given by the Constitution to the Governors to safeguard peace and tranquillity, minorities, and the rights of the services. On the other hand, there was to be no responsibility in the central government, whose continued existence in unimpaired strength was to secure

India from the possibility of grave difficulties arising from the possibility of failure of the system provided for the provinces.

The merits of the report as suggesting a scheme of evolution of full responsible government were not appreciated in India, and a new element appeared in the unexpected conversion of some of the Indian princes to the conception of a federation of India in which they would take an important place. This decision was of vital importance, because it opened up the possibility of the grant of a measure of responsible government in the central administration. If the princes were willing to enter federation virtually *en bloc*, there could be assured in the two houses of the federal Parliament such a measure of representation as would ensure the presence if not the predominance of a conservative spirit, differentiating the lower house from the rather advanced chamber of the existing régime. The princes, on the other hand, stood to gain much. Under the existing system they had no voice in the matters, often deeply affecting them, which were dealt with by the central legislature, above all the fixing of the tariff which inevitably was of high consequence to their subjects. Moreover, if responsible government was accorded to British India, they feared that their relations with the Crown might be transferred to the virtual control of an Indian ministry, whereas in a federation, though in federal matters the States must accept the decisions of the Parliament in which they would have great influence, in all other matters they would constitutionally be entitled to autonomy, and would be free from undue pressure to remodel on a democratic basis their autocratic constitutions. It was on the strength of this new element that it was possible for the British Government to lay aside the Simon Commission's Report as a basis of action, and to summon to London a Round Table Conference, at which for its first session there was a strong representation of moderate British Indian political opinion and of the Indian States. After prolonged discussions the final decision of the British Government was announced

on 19th January, 1931: 'responsibility should be placed upon legislatures, central and provincial, with such provisions as may be necessary to guarantee, during a period of transition, the observance of certain obligations and to meet other special circumstances, and also with such guarantees as are required by minorities to protect their political liberties and rights.' It was made clear that, with a legislature constituted on a federal basis, the British Government would be prepared to recognize the principle of the responsibility of the executive to the legislature.

The National Congress which unquestionably was the most highly organized political body in India had remained aloof from the Conference, and it was clearly desirable to secure participation. Lord Irwin finally succeeded on 5th March, 1931, in securing an agreement with Mr. Gandhi which was followed by a resolution of the Congress at Karachi, under which Mr. Gandhi was authorized to take part in the Second Round Table Conference in London. It was, however, made clear that the Congress demanded the right of secession, control over external relations, defence, fiscal and economic policy, and an impartial examination of the financial transactions of the British Government in India. In fact the proceedings of the Conference failed to secure any co-operation from Mr. Gandhi; the Moslems, Europeans, Anglo-Indians, Indian Christians, and Depressed Classes framed independently a plan of safeguards of their rights, while every effort to settle the vital communal issue between Hindus, Mohammedans, and Sikhs failed as at the first session. The British Government, however, at the close of the Conference in 1931 reaffirmed, with the approval of Parliament, the policy of 19th January, 1931, and its intention of pursuing the necessary inquiries to enable it to frame a constitution. Further, in 1932, it framed, in default of Indian agreement, a settlement of the communal problem. Mr. Gandhi, who on his return to India had again renewed his conflict with the Government and been imprisoned, secured the assent of the Depressed Classes to certain changes in the decision as between them and Hindus generally, and issues of franchise, finance, and

financial relations with the Indian States were studied by special committees. On the basis of the material collected, the British Government announced in March, 1933, the main lines of its policy which were then submitted to a Joint Committee of the two houses, who summoned to participate with them in the hearing of evidence and discussions a number of representatives of Indian opinion.

The governmental scheme accepts the doctrine of responsible government in the provinces subject to safeguards through the Governor for peace and tranquillity, for the interests of minorities and the public services, for the prevention of commercial discrimination, for the protection of the rights of the Indian States, for the administration of areas excluded, as backward, from the general system of the province, and for the carrying out of lawful orders of the Governor-General. For these ends the Governor must be given powers of legislation and finance, but otherwise administration is to be conducted on the lines of responsible government. The Governor-General has analogous responsibilities, but also the duty of securing the financial stability and credit of the federation, and he has sole responsibility for the departments of defence, external affairs, including relations with the Indian princes so far as not covered by the federal constitution, and ecclesiastical affairs. The necessary legislative and financial powers are accorded to him. Legislative power is divided between the centre and the provinces and financial proposals are put forward to secure reasonable possibility of provincial autonomy. Adherence by the Indian States is optional, but it is proposed that the Federation will not be brought into existence until the Rulers of States representing not less than half the aggregate population of the Indian States and entitled to not less than half the seats to be allotted to the States in the Federal Upper Chamber have signified their desire to accede. Adherence will normally involve acceptance of federal legislation for federal issues, but the precise extent of federal authority may be defined in each case. Power is reserved to resume full control in the provinces or the federation in the event of the break-

down of the administration. While provincial autonomy and federal responsibility are to form essential parts of the scheme, the former may if necessary be inaugurated before the latter, which must be dependent on the prior setting up of a Reserve Bank and the establishment of a satisfactory financial and economic position in India.

Though defence is reserved from the control of the legislature, the British Government had already adopted a definite scheme for the gradual Indianization of the army and air force. In a similar manner, while the Indian Civil Service and the Indian Police Service still are to be in part recruited from Europeans, a definite scheme of gradual Indianization had been adopted which may be accelerated in due course; over these services a final control is reserved to the Secretary of State. For other services the protection of Public Service Commissions has already been afforded.

It is not proposed for the present to surrender control of external relations. India was admitted a member of the League of Nations in 1919 as a recognition of the services rendered to the Allied cause, but the attitude of the Indian Government on all issues has been subject to the ultimate control of the British Government, though the Indian representatives at the Assembly and in the Labour organization have normally presented the special views of India in accordance with the general opinion of the Indian legislature. Since the inauguration of the Montagu-Chelmsford reforms, it has been a convention that the customs policy of India shall be accepted by the British Government if that policy rests on the agreement of the Indian legislature and the Government of India.

In recent years the Indian Government has been encouraged to assume the role of protector of the interests of Indian subjects in the Dominions in lieu of the British Government. This position was foreshadowed at the Imperial War Conferences of 1917 and 1918, when India discussed these issues with the Dominions, and these discussions were resumed in 1921 and 1923. The direct relations between representatives of India and of th

Dominions, which were thus established, have yielded substantial results, including the grant of the franchise and of eligibility for old age pensions to Indians in the Commonwealth of Australia, and of the franchise in Queensland. Important agreements, too, were concluded with South Africa in 1927 and 1932, under which the Union receives an agent of the Government of India who represents the views of that Government and co-operates with the Union in the policy of securing the removal from the Union to suitable homes elsewhere of such Indians as do not desire to attain the Union standard of civilization. Some progress has also been achieved in the protection of the right of Indians to migrate to East Africa and in securing that their interests shall receive due consideration in any constitutional developments there.

That Dominion status is the ultimate goal of British policy for India has twice been asserted by the Viceroy, with the authority of the British Government, by Lord Irwin in 1929, and in 1933 by Lord Willingdon. On the other hand, stress was laid by the Secretary of State for India on 22nd November, 1933, on the fact that the status was not the immediate end of the governmental proposals, nor did it mark the next step in Indian progress.

III. THE IMPERIAL CONFERENCE

Prior to 1887 no gathering of the Governments of the Empire had ever taken place, and the invitations sent by the British Government for Queen Victoria's Jubilee celebrations were issued mainly in order to mark the growing sense of Imperial solidarity and the place of the Crown in maintaining unity in the Empire. Discussion of Imperial federation was definitely ruled out, and no effort was made to arrange for any renewal of the rather miscellaneous discussions of matters of common interest which then took place. The Conference for the Diamond Jubilee of 1897 was much more definitely official, for it was restricted to the self-governing colonies, and its business was in part a continuation of the discussions on Imperial economic relations which had taken place at Ottawa in

1894 at a Conference summoned by the Government of Canada. In 1902 the Conference, summoned to celebrate the coronation of King Edward VII, by the concentration of Australian representation as the result of the creation of the Commonwealth, reduced the gathering to smaller proportions and rendered its deliberations more authoritative. In 1907 a definite shape for future Conferences was agreed upon. They were to be Conferences of the Governments of the Empire under the Presidency of the Prime Minister of the United Kingdom, the Secretary of State for the Colonies taking the chair in his absence; the Prime Ministers of the Dominions—the title then given to the self-governing colonies—were to be the other members; there was to be a secretariat to attend to the business of the Conference in the periods between its meetings which were to take place every four years. The first Imperial Conference therefore met in 1911, when the Union of South Africa replaced the former colonies in that country. The Conference of 1907 had assigned no place in the Conference to India, on the score that that territory was not self-governing, but its interests were represented by the Earl of Crewe, the Secretary of State for India, who had previously been Secretary of State for the Colonies.

The preoccupation of the Empire Governments in the War prevented the summoning of a further Conference until 1917, when, with a view to concentration of war efforts, a meeting was summoned of representatives of the Governments of the Empire, including India, who were associated with the British War Cabinet to form the Imperial War Cabinet. It was then suggested by the Prime Minister of the United Kingdom that such Cabinet meetings should be held annually, and a like meeting was convened in 1918, when it was agreed that such meetings should be held regularly, the Prime Minister of each Dominion having the right to nominate a Minister to represent him when he was unable to be present. Further, it was arranged that the Prime Ministers might correspond direct on any matters which they deemed of Cabinet importance. Imperial War Conferences under the presi-

dency of the Secretary of State were held in these years contemporaneously with the Cabinet sessions, to deal with lesser issues. But the holding of annual Cabinets was not revived, and the next Conference in 1921 was virtually of the type of the normal Imperial Conference. It negatived, as unnecessary, the proposal reached at the War Conference of 1917 to convene a Conference to consider the constitutional relations of the Empire, but affirmed the desirability of frequent Conferences. Accordingly the Imperial Conference met in 1923 and an Economic Conference was held concurrently, but in 1926 this division of topics was not repeated, and all questions were dealt with by one Conference. Unlike the Conference of 1921, it undertook, at the instance of the Irish Free State and of the Union of South Africa, in which a Nationalist Ministry had attained power in 1924, the task of defining the relations of the parts of the Commonwealth on the basis of conceding the most complete autonomy, while insisting that co-operation was also essential. As it was unable to undertake detailed examination of the legal changes desirable to carry out its principles to their logical conclusion, it recommended the summoning of a Conference of experts to examine these issues. This took place in 1929, and the Imperial Conference of 1930 homologated the results achieved and arranged for the enactment by the British Parliament, at the request of the Parliaments of the Dominions, of the Statute of Westminster, 1931.

The constitution and the functions of the Conference were not affected by the constitutional changes initiated by the Conference of 1926. They were left on the footing of 1907, save that, as recommended by the War Conference of 1917, India has been accorded due place as a full member of the Conference, and the creation of the Irish Free State has increased the number of the Dominions. The exact character of its resolutions has always been that of honourable undertakings on the part of those governments which adopt them, while other governments remain unaffected. But it remains for each government to determine freely how soon and in what way it can do [redacted]

effect to any resolution to which it has agreed, and a new government is not bound by any resolution adopted by a preceding government, if it is precluded by its political views from giving effect to it. Thus the British Government in 1924 was not bound to accord the Imperial preferences which the previous government had announced at the Conference of 1923. In 1923 General Smuts suggested, in connexion with the resolution then adopted regarding the position of British Indians in the Dominions, that no resolution should be passed without unanimous agreement, but this rule has not been adopted as absolutely binding, though normally efforts are made to secure the greatest measure of common assent.

The essential function of the Conference is to consider all issues of common interest, to lay down the main lines of the common foreign policy to be adopted, and to devise means of fruitful co-operation in the economic and financial sphere as well as in development by migration of the resources of the Commonwealth. Through the Conference also the Dominions and India are brought into contact with those parts of the Empire which are not possessed of responsible government. This was notably the case at the Ottawa Conference of 1932, when the British Government in its negotiations with the Dominions and India was careful to seek to include the Crown Colonies and other territories in the system of mutual trade at which the Conference aimed.

The Imperial Conference naturally serves as a mode of removing disagreements which arise between governments in the Empire in so far as this can be achieved by friendly discussion. Serious divergences of view are clearly unsuited for such treatment, and accordingly the Imperial Conference of 1930 suggested the adoption of the principle that disputes which were of a justiciable character might be referred to an inter-Imperial tribunal whose members would all be chosen from within the Commonwealth. It was impossible to secure agreement that recourse to such a body could be demanded as of right by any member of the Commonwealth or that other methods of settling dis-

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putes should be excluded, and, in the only case which has since arisen, the Irish Free State, as noted above, declined to accept an inter-Imperial court as desirable. The feeling has also been freely expressed that disagreements should rather be disposed of by discussion.

PART I

MACHINERY OF CO-OPERATION

THE development of administrative machinery to correspond with the constitutional growth of the British Commonwealth has always been a problem inseparable from the stages of that growth, and became the more urgent when the effects of the Great War accelerated the rate of constitutional development. The matter occupied the attention of the Imperial War Conference of 1917, which, on the motion of Sir Robert Borden (Canada), passed the following Resolution:

The Imperial War Conference are of opinion that the readjustment of the constitutional relations of the component parts of the Empire is too important and intricate a subject to be dealt with during the War, and that it should form the subject of a special Imperial Conference to be summoned as soon as possible after the cessation of hostilities.

They deem it their duty, however, to place on record their view that any such readjustment, while thoroughly preserving all existing powers of self-government and complete control of domestic affairs, should be based upon a full recognition of the Dominions as autonomous nations of an Imperial Commonwealth, and of India as an important portion of the same, should recognize the right of the Dominions and India to an adequate voice in foreign policy and in foreign relations, and should provide effective arrangements for continuous consultation in all important matters of common Imperial concern, and for such necessary concerted action, founded on consultation, as the several Governments may determine.¹

This Resolution has two parts; the first deals with the question of the recognition of the Dominions as autonomous nations, a question which was settled by the adoption of the Report of the Inter-Imperial Relations Committee (Balfour Committee) at the Imperial Conference of 1926, and finally by the Statute of Westminster, 1931. The second part demands the provision of effective

¹ Imperial War Conference, 1917: *Extracts from Minutes of Proceedings and Papers laid before the Conference, Cd. 8566*, p. 5.

arrangements for continuous consultation and concerted action; and this remains a question the complete solution of which is still to be sought.

The Balfour Committee of 1926 examined the possibility of applying the principles of the Resolution on Treaties¹ of the 1923 Imperial Conference to the conduct of foreign affairs generally, and reported that:

It was frankly recognized that in this sphere, as in the sphere of defence, the major share of responsibility rests now, and must for some time to come continue to rest, with His Majesty's Government in Great Britain. Nevertheless, practically all the Dominions are engaged to some extent, and some to a considerable extent, in the conduct of foreign relations.

And further,

We felt that the governing consideration underlying all discussions of this problem must be that neither Great Britain nor the Dominions could be committed to the acceptance of active obligations except with the definite assent of their own Governments.²

The same Committee also reviewed the system of communication and consultation and reported that:

Sessions of the Imperial Conference at which the Prime Ministers of Great Britain and of the Dominions are all able to be present cannot, from the nature of things, take place very frequently. The system of communication and consultation between Conferences becomes therefore of special importance. We reviewed the position now reached in this respect with special reference to the desirability of arranging that closer personal touch be established between Great Britain and the Dominions, and the Dominions *inter se*. Such contact alone can convey an impression of the atmosphere in which official correspondence is conducted. Development, in this respect, seems particularly necessary in relation to matters of major importance in foreign affairs where expedition is often essential, and urgent decision necessary. A special aspect of the question of consultation which we considered was that concerning the representation of Great Britain in the Dominions. By reason of his constitutional position as explained in Section IV (b) of this

¹ For substance of this resolution, see pp. 131-2, below.

² Imperial Conference, 1926: *Summary of Proceedings, Cmd. 2768*, pp. 25-6.

Report, the Governor-General is no longer the representative of His Majesty's Government in Great Britain. There is no one therefore in the Dominion capitals in a position to represent with authority the views of His Majesty's Government in Great Britain.

We summed up our conclusions in the following Resolution, which is submitted for the consideration of the Conference:

'The Governments represented at the Imperial Conference are impressed with the desirability of developing a system of personal contact, both in London and in the Dominion capitals, to supplement the present system of inter-communication and the reciprocal supply of information on affairs requiring joint consideration. The manner in which any new system is to be worked out is a matter for consideration and settlement between His Majesty's Governments in Great Britain and the Dominions, with due regard to the circumstances of each particular part of the Empire, it being understood that any new arrangements should be supplementary to, and not in replacement of, the system of direct communication from Government to Government and the special arrangements which have been in force since 1918 for communications between Prime Ministers.'¹

The Imperial Conference of 1930 reported on the subject as follows:

Previous Imperial Conferences have made a number of recommendations with regard to the communication of information and the system of consultation in relation to treaty negotiations and the conduct of foreign affairs generally. The main points can be summarized as follows:

- (1) Any of His Majesty's Governments conducting negotiations should inform the other Governments of His Majesty in case they should be interested and give them the opportunity of expressing their views, if they think that their interests may be affected.
- (2) Any of His Majesty's Governments on receiving such information should, if it desires to express any views, do so with reasonable promptitude.
- (3) None of His Majesty's Governments can take any steps which might involve the other Governments of His Majesty in any active obligations without their definite assent.

The Conference desired to emphasize the importance of ensuring the effective operation of these arrangements.

¹ *Ibid.*, p. 27.

As regards the first two points, they made the following observations:

(i) The first point, namely, that of informing other Governments of negotiations, is of special importance in relation to treaty negotiations in order that any Government which feels that it is likely to be interested in negotiations conducted by another Government may have the earliest possible opportunity of expressing its views. The application of this is not, however, confined to treaty negotiations. It cannot be doubted that the fullest possible interchange of information between His Majesty's Governments in relation to all aspects of foreign affairs is of the greatest value to all the Governments concerned.

In considering this aspect of the matter, the Conference have taken note of the development since the Imperial Conference of 1926 of the system of appointment of diplomatic representatives of His Majesty representing in foreign countries the interests of different Members of the British Commonwealth. They feel that such appointments furnish a most valuable opportunity for the interchange of information, not only between the representatives themselves, but also between the respective Governments.

Attention is also drawn to the resolution quoted in Section VI of the Report of the Inter-Imperial Relations Committee of the Imperial Conference of 1926, with regard to the development of a system to supplement the present system of inter-communication through the official channel with reference not only to foreign affairs but to all matters of common concern. The Conference have heard with interest the account which was given of the liaison system adopted by His Majesty's Government in the Commonwealth of Australia, and recognized its value. Their attention has also been called to the action taken by His Majesty's Government in the United Kingdom in the appointment of representatives in Canada and the Union of South Africa. They are impressed with the desirability of continuing to develop the system of personal contact between His Majesty's Governments, though, of course, they recognize that the precise arrangements to be adopted for securing this development are matters for the consideration of the individual Governments with a view to securing a system which shall be appropriate to the particular circumstances of each Government.

(ii) As regards the second point, namely, that any of His Majesty's Governments desiring to express any views should express them with reasonable promptitude, it is clear that a negotiating Government

cannot fail to be embarrassed in the conduct of negotiations if the observations of other Governments who consider that their interests may be affected are not received at the earliest possible stage in the negotiations. In the absence of comment the negotiating Government should, as indicated in the Report of the 1926 Conference, be entitled to assume that no objection will be raised to its proposed policy.¹

These Resolutions emphasize as the guiding principle in the conduct of foreign affairs that no Member of the Commonwealth can commit any other Member to an active obligation. They also assert the need of more continuous co-operation in the conduct of affairs of common interest, and suggest that a greater measure of personal contact must be infused into the existing system of inter-Imperial communication and consultation if such co-operation is to be made really effective.

The affairs which are of common concern to the Members of the British Commonwealth may be divided into two main categories:

1. Affairs of inter-Imperial concern.
2. Foreign affairs.

In order that His Majesty's Governments in the various States of the British Commonwealth may work harmoniously in such affairs,² government machinery is required for three purposes:

- i. Information.
- ii. Consultation and decision.
- iii. Executive action.

The following is an outline of the ground to be covered in reviewing such machinery as now exists for co-operation in these matters; further details under each of the heads given will be found in subsequent sections of this work.

¹ Imperial Conference, 1930: *Summary of Proceedings*, Cmd. 3717, pp. 27-9.

² Throughout this Handbook consideration will be confined to the machinery necessary for the conduct of such of the above affairs as are of common concern; thus it excludes that considerable volume of business done by the Foreign Office and the Dominion Departments of External Affairs which is of concern only to the individual Members of the Commonwealth.

The Crown and Governors-General

His Majesty the King acts on the advice of his Ministers in the United Kingdom and in each of the Dominions. In the latter he is represented by a Governor-General who is constitutionally in the same position in relation to the Dominion Government as is His Majesty in relation to the United Kingdom Government. Formerly, the Governor-General was also the representative of the United Kingdom Government, and the normal channel of communication between the Governments, but he has ceased to fulfil these functions except in the case of the Governor-General of New Zealand.¹

The Imperial Conference

Sessions of the Imperial Conference provide periodical occasions for the interchange of information and personal consultation between responsible ministers regarding both inter-Imperial and foreign affairs. Such meetings, however, cannot conveniently take place more often than about every four years.

*Permanent Machinery of Communication
between the Governments*

The permanent machinery of communication between Dominion Governments is of two kinds:

- i. Correspondence, either between Prime Ministers direct, or between the Government Departments concerned, i.e. the Dominions Office in the United Kingdom and the Departments of External Affairs in the Dominions.
- ii. Personal contact between the representatives of the Governments in each other's capitals, or elsewhere.

These methods are applicable generally to the conduct both of foreign affairs and of other matters of common concern.

¹ As regards the position of the Governors of Newfoundland and Southern Rhodesia, see p. 32, below.

Diplomatic Representation and the Negotiation of Treaties

In the sphere of foreign affairs, special considerations arise owing to the necessity for close and daily contact with the developments and atmosphere of current events and the necessity, at times, for urgency in decision and action. It will be necessary, therefore, to give special consideration in this work to the diplomatic representation of the various Dominions in foreign countries and before the League of Nations at Geneva.

*Special Inter-Imperial Bodies of a Permanent
or Temporary Character*

In the sphere of matters of common concern other than foreign policy, there are, in addition to the main machinery mentioned above, a number of bodies which have been created at different times for specific purposes, mainly of a scientific and economic character. In addition there have been proposals for the creation of other bodies of a more general and permanent nature such as a Commonwealth Secretariat, but such proposals have not gained general acceptance and only machinery of an *ad hoc* nature has been established.

Defence

Communication with regard to questions of defence falls into a special category. The Committee of Imperial Defence must be considered as part of the permanent machinery of co-operation in matters of defence and foreign affairs. Further, a normal channel of communication exists between the Service Departments in the United Kingdom and the Ministries of Defence in the Dominions; and there are other methods of co-operation to be considered in addition.

Justice

Two main matters come up for consideration under this heading:

- i. The Judicial Committee of the Privy Council.

- ii. Machinery for the settlement of disputes between Governments of the British Commonwealth.

These matters fall into a different category from the remainder of the machinery considered, but are included for the sake of completeness.

1. GOVERNORS-GENERAL

Procedure in relation to the Appointment of Governors-General

Until after the Imperial Conference of 1926, the Governors-General of the Dominions exercised dual functions: they were representatives both of the King and of the British Government. The procedure in relation to their appointment has gone through three stages.

Originally, when the Governor-General was an agent of, and responsible to, the British Government, he was appointed by the King wholly on the advice of that Government. The second stage, reached some thirty years ago, introduced the practice of consultation with the Dominion Government before the appointment was made, and implied the recognition of a practical power of veto by that Government; in other words, the appointment was still made by the King on the recommendation of the British Government, but that recommendation would not be put forward unless it were in accordance with the wishes of the Dominion Government concerned. The third stage developed out of the Imperial Conference of 1926, when the Dominions were given the choice of limiting the functions of their Governors-General to representation of the King alone and not of the Government of the United Kingdom.¹ All the Dominions except New Zealand and Newfoundland² elected to make this change.

As a result it became clear that the parties primarily interested in the appointment of a Governor-General of a Dominion are His Majesty the King, whose representative the Governor-General is, and the Dominion concerned. His Majesty now acts therefore on the advice of

¹ Imperial Conference, 1926: *Summary of Proceedings*, Cmd. 2768, p. 16.

² The Governor of Newfoundland in normal times is in the same position as the Governor-General of a Dominion.

the Dominion Ministers who are alone constitutionally responsible for such advice. The Ministers concerned tender this formal advice after informal consultation with His Majesty, the Government of the United Kingdom being completely eliminated¹ in the matter of appointment excepting in so far as the Dominion may wish to retain it as a channel of communication with His Majesty.

It was definitely the sense of the Imperial Conference of 1930² that, irrespective of the channel of communication adopted, the responsibility for advice in such cases as above should rest with the Dominion Prime Minister. It was, at the same time, the distinct opinion of the Conference that the King, in a matter which is now so personal to himself as the choice of his representative in a Dominion, might fittingly consult with and seek advice from any person or persons whatsoever. One effect of this development has been the appointment in the Irish Free State and in Australia of Irish and Australian nationals respectively.

Instruments used in making the Appointment

Three instruments are used in making this appointment, namely: the Letters Patent, the Instructions, and the Commission. A detailed account of those used in the appointment of the Governor-General of Canada and notes on the appointments of the Governors-General of Australia, New Zealand, South Africa, and the Irish Free State will be found in Appendix A.³

Constitutional Position as defined in 1926

Previous to 1926, when the Governor-General was appointed on the advice of His Majesty's Ministers in London, his functions were on one side comparable to those of an officer of the Colonial Office, and he played

¹ But His Majesty still appoints the Governors of Newfoundland, of the States of the Australian Commonwealth, of Northern Ireland, and of Southern Rhodesia on the advice of his Government in the United Kingdom.

² Imperial Conference, 1930: *Summary of Proceedings*, Cmd. 3717, p. 26.
³ See p. 231, below.

an essential part in the system of communication between the Dominion Governments and the Colonial Office. At the same time he was also the representative of the King and, further, he fulfilled functions that might be described as ambassadorial; in this latter capacity one of his duties was to make regular communications to the Government in the United Kingdom on internal conditions in the Dominions.

At the Imperial Conference of 1926 the function of the Governor-General as a channel of communication between the Governments was terminated in deference to the views of Dominion Governments, expressed in 1918 and subsequently, that communication should be between Government and Government direct. The Conference passed a Resolution defining the position of the Governor-General as being:

the representative of the Crown, holding in all essential respects the same position in relation to the administration of public affairs in the Dominion as is held by His Majesty the King in Great Britain, and that he is not the representative or agent of His Majesty's Government in Great Britain or of any department of that Government.¹

As a corollary to this the Conference agreed that the Governments of the Dominions should keep their Governors-General as fully informed on affairs both domestic and external as is the King by the Ministers in Great Britain. This is a matter for arrangement by the individual Governments.

The new system was subsequently inaugurated in each of the Dominions, except New Zealand and Newfoundland, who preferred, as stated above, to maintain the original arrangement whereby the Governor-General and the Governor, respectively, acted as representative of the United Kingdom Government as well as of the King.

Consequences of the Change

The present position of the Governor-General is thus constitutionally the same in a Dominion as is that of the

¹ *Cmd. 2768*, p. 16.

THE IMPERIAL CONFERENCE

11

King in the United Kingdom, subject to modifications according to the Dominion constitutions. As the King's Representative, he is in a position to communicate direct with the King or with the King's Private Secretary as the case may require.

The immediate result of this change, however, as the Balfour Committee pointed out, was that 'there is no one in the Dominion capitals in a position to represent with authority the views of His Majesty's Government in Great Britain'.¹

Steps were therefore taken to appoint High Commissioners to Canada and South Africa, and a Representative to Australia. No corresponding appointment has been made to the Irish Free State.

2. THE IMPERIAL CONFERENCE

The capital importance of the Imperial Conference lies in the fact that at more or less regular intervals it provides what is in fact the sole opportunity for personal consultation between the responsible statesmen of all the Members of the British Commonwealth and, as such, it has been the occasion of the great majority of those political and constitutional achievements which have gone to the building up of the British Commonwealth into the unique structure which it is to-day. In the constitutional field it has made gradual provision for the development of a Colonial Empire into a group of self-governing nations owing common allegiance to one Crown. The adjustments necessarily concomitant to such a development have had to be worked out in many different spheres: the conduct of foreign relations, defence, economic relations, the creation of a number of permanent and *ad hoc* inter-Imperial bodies for economic and scientific purposes, and a great many minor subjects.

The first Conference of the series was held in 1887 on the occasion of the Jubilee of Queen Victoria. Successive Colonial Conferences provided experience and precedents, and in 1907 (when the title Dominion was first adopted)

¹ *Ibid.*, p. 27.

Mr. Lyttelton's proposal for an Imperial Council was rejected and the character of future Conferences was agreed upon and laid down in the following Resolutions:

That it will be to the advantage of the Empire if a Conference, to be called the Imperial Conference, is held every four years, at which questions of common interest may be discussed and considered as between His Majesty's Government and his Governments of the self-governing Dominions beyond the seas. The Prime Minister of the United Kingdom will be *ex officio* President, and the Prime Ministers of the self-governing Dominions *ex officio* members of the Conference. The Secretary of State for the Colonies will be an *ex officio* member of the Conference, and will take the chair in the absence of the President, and will arrange for such Imperial Conferences after communication with the Prime Ministers of the respective Dominions.

Such other Ministers as the respective Governments may appoint will also be members of the Conference—it being understood that except by special permission of the Conference each discussion will be conducted by not more than two representatives from each Government and that each Government will have only one vote.

That it is desirable to establish a system by which the several Governments represented shall be kept informed during the periods between the Conferences in regard to matters which have been or may be subjects for discussion, by means of a permanent secretarial staff, charged under the direction of the Secretary of State for the Colonies with the duty of obtaining information for the use of the Conference, of attending to its resolutions, and of conducting correspondence on matters relating to its affairs.

That upon matters of importance, requiring consultation between two or more Governments, which cannot conveniently be postponed until the next Conference, or involving subjects of a minor character or such as call for detailed consideration, subsidiary conferences should be held between representatives of the Governments concerned, specially chosen for the purpose.¹

The representation of India at future Conferences was provided for by a Resolution of the Imperial War Conference of 1917; the Irish Free State, having become a Dominion in 1922, was represented for the first time at the Imperial Conference of 1923.

¹ Colonial Conference, 1907: *Minutes of Proceedings*, Cd. 3523, pp. 82-94.

Resolutions adopted at the Imperial Conference are not legally binding on any Government; executive action lies solely with the individual Governments, and it may happen that a change of government in any part of the Commonwealth will lead to a reversal of the policy agreed to by its predecessor at the Conference. This is, however, a condition inseparable from the system of free co-operation which the British Commonwealth has evolved.

Hitherto meetings of the Conference have been held in the following years: 1887, 1894 (in Ottawa), 1897, 1902, 1907, 1909 (a special Defence Conference), 1911, 1917, and 1918 (Imperial War Conference), 1921, 1923 (both an Imperial and an Imperial Economic Conference), 1926, 1930, and 1932 (Imperial Economic Conference in Ottawa).¹

Proposals have from time to time been made for the creation of some body such as a permanent Conference secretariat: reference will be found to these proposals in Part IV, below.² Some criticisms of certain deficiencies in the Conference will be found in the same section.

Continuity is an essential requirement of Commonwealth relations both internal and external, more particularly the latter, where the situation changes continuously. The Imperial Conference provides only intermittent occasions for consultation; its necessary counterpart therefore is the permanent machinery which exists for communication and consultation between Governments.

INDIA AT THE IMPERIAL CONFERENCE

Before the War the representation of India at the Colonial and Imperial Conferences was undertaken by the Imperial Government through the attendance, at some if not all sessions, of the Secretary of State for India. During the Imperial War Conference, however, an innovation was made in that more direct representatives of India were admitted to those Conferences and to the Imperial War Cabinets of 1917 and 1918.

¹ A list of the Reports on the Proceedings of the Conferences is given in the Bibliography, see p. 245.

² See pp. 212-19, below.

The Imperial Conference of 1917, on the motion of Sir Robert Borden (Canada), passed the following Resolution:

The Imperial War Conference desires to place on record its view that the Resolution of the Imperial Conference of 20th April, 1907, should be modified to permit of India being fully represented at all future Imperial Conferences and that necessary steps be taken to secure the assent of the various Governments in order that the next Imperial Conference may be summoned and constituted accordingly.¹

Since then India has been regularly represented at the Imperial Conference by a Ruling Prince and some distinguished public man from British India in addition to the Secretary of State.

At the Ottawa Conference, 1932, India was represented by a delegation led by Sir Atul Chatterjee, a Member of the Council of India, and comprising members of the Executive Council, the Legislative Assembly, and a State Government, and amounting to eight in all: a larger number than had represented India at any previous Conference.

There is always prior consultation between the Secretary of State and the Government of India as to the instructions to be given to representatives at the Imperial Conference.

3. PERMANENT MACHINERY OF COMMUNICATION

A. Functions of the Existing Machinery

There have been established from time to time a number of inter-Imperial bodies designed to fulfil specific functions such as scientific and economic research. These will be considered later. For the moment, we are concerned with the permanent machinery available for general communication between the Governments of the Commonwealth.

This is of two kinds. The first consists of the Government offices in the States' own capitals, viz. the Dominions Office in the United Kingdom and the Departments of External Affairs or Prime Ministers' Departments in the Dominion capitals. The second comprises the representa-

¹ Imperial War Conference, 1917: *Extracts from Minutes of Proceedings and Papers laid before the Conference*, Cd. 8566, p. 22.

tives of the Governments in each other's capitals, viz. the Dominion High Commissioners¹ or Resident Ministers in the United Kingdom; the United Kingdom High Commissioners in Canada and South Africa; the United Kingdom Representative in Australia; and the Governor-General of New Zealand. The special position of India is dealt with below.²

There are no political representatives of the Dominion Governments in each other's capitals, and there is no political representative of the United Kingdom Government in the Irish Free State.

A more detailed account of these establishments and officers will be given later.³ For the most part they have other functions as well as those of communication between Governments; and indeed this latter may constitute only a small part of their business; but it is to this part that attention is directed here.

In the spheres alike of foreign and inter-Imperial affairs, communication takes two main forms: first, the supply and interchange of information, and second, inter-consultation.

SUPPLY AND INTERCHANGE OF INFORMATION

a. Foreign affairs. Successive Imperial Conferences have emphasized the necessity for a full supply of information, and the Report of the Imperial Conference of 1930 states that:

It cannot be doubted that the fullest possible interchange of information between His Majesty's Governments in relation to all aspects of foreign affairs is of the greatest value to all the Governments concerned.⁴

The diplomatic service of the United Kingdom provides a means for the collection of information far more highly developed than is available in any of the Dominions: this service is at the disposal of the Dominion Governments and a system has been established which aims at providing them with a complete and continuous account of

¹ A note on the status of High Commissioners is given in Appendix B.

² See p. 62 et seq., below.

³ See pp. 20-62, below.

⁴ Imperial Conference, 1930: *Summary of Proceedings*, Cmd. 3717, p. 28.

developments over the whole range of United Kingdom diplomacy.

The conditions under which this may be of use to the Dominion Governments are first, that they should receive adequate material dealing with the background of any question which may become of active interest; and second, that when questions assume current importance they should receive constant communications with regard to the latest developments as early as possible. With these objects in view, a special Dominions Information Department has been established in the Foreign Office. It is the business of this Department to collect information and supply it to the Foreign Affairs Department of the Dominions Office, whence it is forwarded in regular cables to the Dominion Departments of External Affairs; and these cables are supplemented by dispatches sent by every mail. When any questions seem likely to assume future importance, attempts are made to anticipate the need of the Dominion Governments by forwarding requisite information.

The telegrams from the Dominions Office regarding negotiations which are being carried on by the Foreign Office of the United Kingdom are frequent and at times lengthy. In some cases they contain verbatim quotations from correspondence or statements, and in other cases they provide summaries only. The form is not precisely the same as that of the material which is daily circulated to some or all of the members of the British Cabinet, but as a rule it gives at least the substance of that material. Thus the Prime Minister of a Dominion receives as much official documentary information on the foreign affairs of the United Kingdom as do some or all of the members of the British Cabinet; though the difference in the time of receipt makes a fundamental difference in his knowledge of the problems which are at the moment facing the British Cabinet, for there are many cases in which, because of the pressure of events, it is not feasible to send this information in advance, and telegrams are frequently received simultaneously with press announcements. In addition to this cabled information, Foreign Office prints

are furnished, containing dispatches between the Secretary of State for Foreign Affairs and Ministers abroad. Copies of this supply of information are furnished by the Dominions Office to the High Commissioners in London. The cost of this system is borne by the Government of the United Kingdom.

To a lesser extent, the reverse process also obtains, the Dominions Office receiving communications from the various Dominion Departments of External Affairs, but it is not a regular practice for these Departments to forward to London copies or summaries of all communications from their separate diplomatic representatives.

b. Inter-Imperial affairs. There is no special arrangement between the Dominions Office and any Government Departments other than the Foreign Office for the regular collection and supply of information. But it is a common practice for the Defence and, occasionally, other Departments, to supply information on matters of special interest for communication to Dominion Governments.

The Dominions Office also supplies copies of publications of all kinds and other Departmental papers when it appears that such information will be of interest to Dominion Governments.

The Dominion Governments in return send regularly to the Dominions Office a full supply of their various publications, and detailed information on other matters, particularly, for example, in relation to co-ordination in matters of defence.

Generally speaking, the representatives of the various Governments in one another's capitals communicate to their Governments regularly both by telegram and dispatch, with regard both to the general course of affairs in the country in which they are resident and also on any specific questions which may arise.

CONSULTATION

The importance and difficulty of effective consultation between the Governments, particularly in the sphere of

foreign policy, has been constantly stressed by post-War Imperial Conferences.¹ Consultation is a much more difficult problem than the interchange of information. The procedure at present current is not systematized but is elastic; at any given juncture consultation is effected at the time and by the method which appears most convenient.

There are, however, only a limited number of methods available, and these can be classified as follows:

- i. Consultation by correspondence (i.e. by cable, telephone, wireless, or mail) either direct between Prime Ministers, or through the Government Departments concerned.
- ii. Consultation by personal contact between representatives of Governments and members of Governments in whose countries they reside.

Each of these will be considered in turn.

a. Direct communication between Prime Ministers. The arrangement that Prime Ministers should communicate directly with one another was made in 1918. It was the first modification of the old system of communication effected and was established in consideration of the view of Dominion Governments that their channel of communication with the United Kingdom should be more direct than it had been previously.

The Imperial War Conference of 1918 invited the Imperial War Cabinet to consider this question, and as a result the Cabinet passed the following Resolutions (30th July, 1918):

1. The Prime Ministers of the Dominions, as members of the Imperial War Cabinet, have the right of direct communication with the Prime Minister of the United Kingdom, and *vice versa*.
2. Such communications should be confined to matters of Cabinet importance. The Prime Ministers themselves are judges of such questions.
3. Telegraphic communications² between the Prime Ministers should, as a rule, be conducted through the Colonial Office

¹ For quotations from their Reports on these matters, see pp. 1-5, above.

² Communications can now also be made by telephone.

machinery, but this will not exclude the adoption of more direct means of communication in exceptional circumstances.¹

In fact, this system has proved of less importance than was anticipated when it was established, despite the development of long-distance telephones.

b. Direct communication between Governments. The second method of consultation by correspondence is from Government to Government direct through their appropriate departments, i.e. the Dominions Office and the Departments of External Affairs. Communication may be by wireless, cable, telephone, or dispatch. In any case this method involves the correlation by correspondence of the views of all the Governments; and this may be necessary at a time when the necessity for one of the Governments to take a decision is urgent.

c. Personal contact. Lastly, consultation may be effected through the personal contact of representatives of the Governments with each other and with members or officials of the Governments in whose countries they reside. This method has been developed to a certain extent at Geneva, where it is the practice for the Commonwealth delegates to meet at intervals during sessions of the League Assembly and on similar occasions such as international conferences.

It is also to a lesser extent the practice for the representatives of the Members of the Commonwealth in each other's capitals to play some part in the procedure of consultation mainly by personal interviews with members or officials of the Governments in whose country they are residing. This practice is used as an auxiliary to the method of consultation by correspondence between Governments; the extent to which it is used varies as between the different Governments, and its effectiveness depends on the degree to which the various representatives enjoy the confidence of their Governments.

Owing to the fact that the Dominions are not represented in one another's capitals, any personal contact

¹ *Cd. 9177, p. 165.*

between representatives of their Governments can as a rule only take place in London or Geneva.

B. Review of the Existing Machinery

DEPARTMENTS AND OFFICIALS

Reference has been made above¹ to the functions of the various departments and officials in so far as they are normally concerned with communication between, and representation of, the Governments of the Commonwealth; and a brief account has been given of the methods of communication employed. A list of these departments and officials is set out below and is followed by a rather more detailed review of their activities.

Apart from Defence, which is dealt with in a separate section below,² the permanent machinery for the conduct of matters of common concern consists of the following departments and officials:

UNITED KINGDOM

The Dominions Office.

The Department of Overseas Trade: Empire Division.

The Government of the United Kingdom is represented in the Dominions by the following officers:

Canada—the High Commissioner in Canada for His Majesty's Government in the United Kingdom.

Australia—the Representative in the Commonwealth of Australia of His Majesty's Government in the United Kingdom (pending the appointment of a High Commissioner).

New Zealand—the Governor-General.

South Africa—the High Commissioner in the Union of South Africa for His Majesty's Government in the United Kingdom; His Majesty's High Commissioner for Basutoland, the Bechuanaland Protectorate, and Swaziland.

The Irish Free State—there is no representative other than the Trade Commissioner.

¹ Pp. 5–8, above.

² See pp. 84–115, below.

Newfoundland—the Governor.¹

Southern Rhodesia—the Governor.¹

CANADA

The Department of External Affairs.

The High Commissioner, who represents Canada in the United Kingdom and is an Officer of the Department of External Affairs.

Canadian Air Liaison Officer, who is attached to the Air Ministry, London.

Agents-General in the United Kingdom for the Canadian Provinces.

AUSTRALIA

The Prime Minister's Department and the Department of External Affairs.

The High Commissioner,² who represents the Australian Government in the United Kingdom and is attached to the Prime Minister's Department.

The External Affairs Officer in London, who is a member of the staff of the Department of External Affairs, and three Liaison Officers for Defence, all of whom are on the staff of the High Commissioner.

The Agents-General in the United Kingdom for the individual Australian States.

NEW ZEALAND

The Prime Minister's Department. This Department contains an 'Imperial Affairs Officer', who is also Secretary of External Affairs and has charge of the Department of External Affairs.

The High Commissioner, who represents the Government of New Zealand in the United Kingdom and is responsible to the Prime Minister.

SOUTH AFRICA

The Department of External Affairs.

¹ As regards the special position of the Governors of Newfoundland and Southern Rhodesia, see p. 32 below.

² From February 1932 to October 1933 there was an Australian Resident Minister stationed in London. See p. 228, below.

The High Commissioner, who represents the Government of the Union of South Africa in the United Kingdom and is an Officer of the Department of External Affairs.

IRISH FREE STATE

The Department of External Affairs.

The High Commissioner, an Officer of the Department of External Affairs, who represents the Government of the Irish Free State in the United Kingdom.

NEWFOUNDLAND

A Trade Commissioner is at present the only representative of Newfoundland in London.

SOUTHERN RHODESIA

The Departments of Internal Affairs and of Finance.

The High Commissioner, who is the official representative of the Colonial Government in the United Kingdom.

INDIA¹

The High Commissioner in the United Kingdom.

The Agent-General in the Union of South Africa.

THE UNITED KINGDOM

THE DOMINIONS OFFICE

1. The Creation of a Dominions Division of the Colonial Office

As early as 1907 opinion amongst Dominion statesmen favoured some modification in the organization of the Colonial Office in recognition of the constitutional and political developments within the Dominions which differentiated them from the Crown Colonies. As a result a special Dominions Division of the Colonial Office was formed.

2. The Establishment of the Dominions Office

The formation of a Dominions Division of the Colonial Office was not, however, the final arrangement, and the development, of which the creation of this Division was

¹ See p. 67 et seq., below.

a manifestation, continued. It was the logical outcome of this continuance that the Government of the United Kingdom should in 1925 find that the Dominion Governments were agreeable to the idea of establishing a Dominions Office and creating a new Secretaryship of State. The change was made partly to accord with the sentiments of the Dominions, partly to meet the increasing exigencies of the work in the Colonial Office. The reasons and scope of the change were given by the Prime Minister (Mr. Baldwin) in answer to a question in the House of Commons on 11th June, 1925. He said:

The Government have come to the conclusion that the existing organization of the Colonial Office is no longer in correspondence with the actual constitutional position in the Empire, and is inadequate to the extent and variety of the work thrown upon it. It fails, more particularly, to give sufficiently clear recognition to the profound difference between the work of communication and consultation with the self-governing partner nations of the British Commonwealth and the administrative work of controlling and developing the Colonies and Protectorates for whose welfare this House is directly responsible. The following changes are, therefore, proposed:

1. The conduct of affairs with the Dominions will be under a separate new Secretaryship of State for Dominion Affairs, with its own Parliamentary Under-Secretary of State, who will also act as Chairman of the Oversea Settlement Committee, and Permanent Under-Secretary of State.
2. For reasons of practical convenience, the new Secretaryship of State will continue to be vested in the same person as the holder of the Secretaryship of State for the Colonies, and the Department of Dominion Affairs will continue to be housed in the Colonial Office.¹

This arrangement, under which the Secretaryships of State for Dominion Affairs and for the Colonies were combined in the same person, continued from 1925 to 1930. They were then divided and Dominion affairs became the entire charge of a principal Secretary of State.

¹ *House of Commons Debates* (London), 5th series, vol. clxxxiv, col. 2239, 11th June, 1925.

3. Organization

In addition to the Secretary of State for Dominion Affairs there is the following personnel:

The Parliamentary Under-Secretary of State.

The Permanent Under-Secretary of State.

Two Assistant Under-Secretaries of State.

The Assistant Secretaries in charge of the Divisions.

Below the rank of Assistant Under-Secretary of State, the staff of the Dominions Office and the Colonial Office is interchangeable. The services of the Legal Staff, the Establishments Branch, the Library, the Accounts, Printing, Revision of Records, and Telegraph Sections are at the disposal of both offices, which remain housed in the same building.

The Secretary of State selects the Permanent Under-Secretary of State, the Assistant Under-Secretaries of State, the Legal Adviser and Assistant Legal Adviser. The other officials are recruited after competitive examinations held by the Civil Service Commissioners.

4. Functions

The function of the Dominions Office is essentially of a diplomatic character, as opposed to the administrative nature of the work of the Colonial Office; it is the liaison between His Majesty's Governments in the United Kingdom and the Dominions. In the debate on the creation of the separate Secretaryship of State for Dominion Affairs in the House of Commons on 27th July, 1925,¹ Mr. Walter Runciman called it 'a Foreign Office with a family feeling'.

The office has four divisions, each under the charge of an Assistant Secretary. These divisions are:

i. Imperial Conference (general).

Defence.

Arbitration and Disarmament.

Nationality and Passport questions.

¹ *Ibid.*, vol. clxxxvii, col. 65, et seq., 27th July, 1925.

Constitutional questions.
Ceremonial.

ii. International Affairs.
Communications.

This division is in close contact with the Dominions Information Department of the Foreign Office, by which it is provided with a regular supply of information for transmission to Dominion Governments.

iii. Imperial Conference in its economic aspects and related questions.

iv. Matters relating to individual Dominions and to Southern Rhodesia and the South African High Commission¹ Territories.

Establishment matters (including those relating to United Kingdom Representatives in the Dominions and their staffs).

Southern Rhodesia does not possess full Dominion status; the most important limitation on its responsible government lies in the maintenance by the British Government of a right to intervene in questions of native policy. An anomaly therefore arises in so far as it is the Colonial and not the Dominions Office which traditionally deals with matters concerning native administration.

5. Oversea Settlement Department

This is a Department of the Dominions Office, and the salaries of the Secretary and staff are borne on the Dominions Office Vote. The staff serves the Oversea Settlement Committee which was appointed to assist His Majesty's Government in the United Kingdom in carrying out the policy embodied in the Empire Settlement Act, 1922. The Department is constituted in accordance with the recommendations of the Dominions Royal Commission and the Empire Settlement Committee.² The purpose of the Oversea Settlement Committee is to be a Central Emigration Authority, capable of carrying out any policy as

¹ For a note on His Majesty's High Commissioner for Basutoland, the Bechuanaland Protectorate and Swaziland, see p. 31, below.

² Cf. Cd. 8462 and Cd. 8672.

regards emigration which may be decided upon by the Government of the United Kingdom in consultation with the Dominion Governments. It has executive powers, and the ultimate responsibility for its actions lies with the Secretary of State for Dominion Affairs.

The Committee is constituted as follows:

President: The Secretary of State for Dominion Affairs.

Chairman: The Parliamentary Under-Secretary of State for Dominion Affairs.

Representatives from the following Government Departments:

Dominions Office.

Board of Trade.

Ministry of Labour.

Department of Overseas Trade.

War Office.

Ministry of Health.

Treasury.

Ministry of Agriculture.

Representatives appointed by each of the Dominion Governments.

One of the Agents-General for the Australian States.

One of the Agents-General for the Canadian Provinces.

Five private members, of whom two are women.

Further, representatives of other parts of the Empire and of other Departments are invited to attend the Committee if the matters discussed concern them.

It is laid down that the Committee should deal chiefly with the following matters:

The licensing of passage brokers and their agents.

The licensing of emigration societies.

Dissemination of information about openings in the Dominions.

Advice with regard to accommodation and health on board ship.

In setting up the Committee no alteration was contemplated in the various organizations which the Dominions and State Governments maintain, and which continue to have the final word on the selection of emigrants.

6. *Finance*

The estimated net expenditure from Votes administered by the Dominions and Colonial Offices for the year 1933-4 was as follows:¹

	£
Colonial Office (Class II, Vote 9)	146,704
Colonial and Middle Eastern Services (Class II, Vote 10).	732,079
Dominions Office (Class II, Vote 4)	51,450
Dominions Services (Class II, Vote 5)	75,163
Oversea Settlement (Class II, Vote 8)	69,325
Empire Marketing (Class II, Vote 7)	220,000

DEPARTMENT OF OVERSEAS TRADE: EMPIRE DIVISION

A considerable part of the work of the Empire Division of the Department of Overseas Trade—as of the Department as a whole—comprises the supplying of information to inquirers interested in the export of goods manufactured in the United Kingdom. Manufacturers and traders desirous of seeking new markets in the Dominions, India, and the Colonies require information in the shape of trade figures, price figures, customs tariffs and regulations, freights and shipping rates, and local market conditions. In all these matters the Division is ready to give information and advice, having at its command the latest and most up-to-date information available. So, too, it is ready to assist in obtaining suitable agents overseas, to advise on the commercial customs, salesmanship and publicity methods obtaining in the Empire overseas, and has at hand lists of overseas importers classified according to the goods in which they deal. A complementary activity of the Division is the referring of overseas buyers to such manufacturers in the United Kingdom as they may wish to do business with.

The Division is served by a network of representatives throughout the Empire, there being no fewer than fifteen

¹ *Dominions Office and Colonial Office List, 1934*, p. xi.

Trade Commissioners in the Dominions and India alone. These are stationed as follows.

Canada and Newfoundland

- H.M. Senior Trade Commissioner, assisted by a second Commissioner, Montreal.
- H.M. Trade Commissioner, Toronto.
- H.M. Trade Commissioner, Vancouver.
- H.M. Trade Commissioner, Winnipeg.

Australia

- H.M. Senior Trade Commissioner, Sydney.
- H.M. Trade Commissioner, Melbourne.

New Zealand

- H.M. Trade Commissioner, Wellington.

Union of South Africa

- H.M. Senior Trade Commissioner, Capetown.
- H.M. Trade Commissioner, Durban.
- H.M. Trade Commissioner, Johannesburg.

Irish Free State

- United Kingdom Trade Commissioner, Dublin.

Newfoundland

- H.M. Trade Commissioners in Montreal act also on behalf of Newfoundland.

Southern Rhodesia

- H.M. Trade Commissioner in the Union of South Africa also acts as the Imperial Trade Representative in Southern Rhodesia (Bulawayo).

India.

- H.M. Senior Trade Commissioner, assisted by a second Commissioner, Calcutta.
- H.M. Trade Commissioner, Bombay.¹

¹ H.M. Trade Commissioners in India act also on behalf of Ceylon. The other Trade Commissioners are stationed in East Africa (Kenya), West Indies (Trinidad and Jamaica), and Malaya (Singapore). There are, in addition, Imperial Trade Correspondents in each of the Dominions and in most Colonies and Protectorates.

THE HIGH COMMISSIONER IN CANADA FOR HIS MAJESTY'S
GOVERNMENT IN THE UNITED KINGDOM

The office of High Commissioner in Canada for His Majesty's Government in the United Kingdom was established in 1928, in pursuance of the Balfour Report which emphasized at the same time the absence of authoritative representation of the Government of the United Kingdom in the Dominions and the necessity for personal contact in the conduct of relations. The Prime Minister of Canada speaking of the new office in the Canadian House of Commons on 28th May, 1928, said:

I believe that the opportunity for personal conference with a representative of the British Government on many matters that arise between that Government and our own will prove an effective means of avoiding possibilities of misunderstanding that occur so frequently when communications are conducted in writing.¹

In answer to a question in the House of Commons, the then Secretary of State for Dominion Affairs (Rt. Hon. L. S. Amery) stated on 21st May, 1928, that it was not at present possible to define the functions of the High Commissioner in detail, but that their general character was indicated by the Resolution adopted in the Balfour Report;² all the interests of the Government of the United Kingdom would come within his province, and doubtless he would be of great assistance to the Trade Commissioner.

The High Commissioner is assisted by two Secretaries, appointed from the Foreign Office and the Dominions Office respectively. His headquarters are in Ottawa.

REPRESENTATIVE IN THE COMMONWEALTH OF AUSTRALIA
OF HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM

This post was established in 1931 pending the appointment of a High Commissioner. As in Canada, the necessity for its establishment arose from the limitation of the functions of the Governor-General following the Imperial

¹ *Journal of the Parliaments of the Empire*, vol. ix, No. 3, July, 1928, p. 654.

² Quoted on p. 2, above.

Conference in 1926, in consequence of which there was no representative of the United Kingdom Government in the Commonwealth of Australia. The Representative is stationed in Canberra.

THE GOVERNOR-GENERAL OF NEW ZEALAND¹

As stated above, the Government of New Zealand has not implemented the agreement reached at the Imperial Conference of 1926 to limit the functions of Governors-General.² The Governor-General of New Zealand continues, therefore, to combine the two functions of Representative in New Zealand both of His Majesty the King and of His Majesty's Government in the United Kingdom; in this latter capacity he is still the channel of communication between the Governments, and therefore continues to communicate information to the Dominions Office with regard to the course of affairs in New Zealand.

HIGH COMMISSIONER IN THE UNION OF SOUTH AFRICA FOR HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM

The office of the High Commissioner for the United Kingdom in the Union of South Africa was also created to meet the situation resulting from the limitation of the functions of the Governor-General by the Imperial Conference of 1926, and to provide a representative of the United Kingdom Government in South Africa. It dates from 21st November, 1930, and corresponds to the office of the Union High Commissioner in London or the High Commissioner for the United Kingdom in Canada. As a channel of communication between his own Government and that of the Union, the High Commissioner discharges some of the functions which, prior to 1927, were performed by the Governor-General, and from 1927 till 1930 by the officer representing the Government of the United Kingdom (cf. Representative in Australia above), who was

¹ See p. 238, below.

² See p. 6, above.

also Imperial Secretary to the then High Commissioner for South Africa.¹

The two High Commissionerships are at present held by the same officer, but the offices are quite distinct even to the extent of having different precedence, uniforms, and office staffs. The holder is appointed to the High Commissionership for Basutoland, the Bechuanaland Protectorate, and Swaziland by His Majesty's Commission; to the High Commissionership for His Majesty's Government by letter from the Secretary of State. His emoluments for both offices are at present provided by the United Kingdom Parliament under the Vote for the High Commissioner for the United Kingdom in South Africa. Normally, when the holder is on leave, the Naval Commander-in-Chief functions as High Commissioner for Basutoland, the Bechuanaland Protectorate, and Swaziland under a dormant commission, while another officer undertakes the work of the High Commissioner for His Majesty's Government.

HIS MAJESTY'S HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE, AND SWAZILAND

This office, which used to be held by the Governor-General, was, in 1931, entrusted to another official. Since October, 1923, the duties of the office have been reduced, first by the grant of responsible government to Southern Rhodesia, and then by the transfer of the British South Africa Company's administration in Northern Rhodesia to the Crown in April 1924. The High Commissioner, however, retains some of his previous powers and functions in regard to native legislation in Southern Rhodesia and, in regard to the native reserves there, his approval is required to the appointment, by the Governor-in-Council, of the Minister for Native Affairs and the Chief Native Commissioner.² All his functions in Northern Rhodesia lapsed with the appointment of the first Governor in 1924.

¹ Since June 19, 1934, entitled 'His Majesty's High Commissioner for Basutoland, the Bechuanaland Protectorate, and Swaziland' (see below).

² See p. 25, above.

His Majesty's High Commissioner thus retains some authority in Southern Rhodesia and represents the King in Basutoland, Swaziland, and the Bechuanaland Protectorate.¹ He conducts the administration of these three native territories through Resident Commissioners, legislates by proclamation, and answers for his administration to the Secretary of State for Dominion Affairs. He is in no sense responsible to the Union Government, though he naturally keeps in closest touch with it.

THE GOVERNOR OF NEWFOUNDLAND

In Newfoundland, which is one of the Dominions as defined in the Statute of Westminster, 1931, responsible government has been temporarily suspended and, during this suspension, the Governor is in fact, as well as in name, the head of the administration and as such communicates with, and receives directions from, the Dominions Office.

THE GOVERNOR OF SOUTHERN RHODESIA

In Southern Rhodesia, a self-governing colony to which responsible government was granted in 1923, the Governor is not only the King's Representative, but the regular channel of communication between His Majesty's Government in the United Kingdom and the Colonial Government.

CANADA

THE DEPARTMENT OF EXTERNAL AFFAIRS

Before 1909 that part of Canada's foreign relations—a comparatively unimpressive part—which was not administered directly from Downing Street was entrusted to the care of the Canadian Secretary of State. No Department devoted exclusively to international relations was considered necessary until 1909, when the Government decided that the Dominion had attained a position of

¹ Under the Union of South Africa Act, provision is made for the transfer of the three Native Territories (Bechuanaland, Swaziland, and Basutoland) to the Union Government at some future date.

CANADA

sufficient importance to warrant the establishment of such a Department. As the most important of Canada's relations with other countries were at that time, and still remain, those with the United Kingdom, the designation Foreign Office was obviously unsuitable. Hence the name Department of External Affairs.

It was not until 1912 that the new Department was given a Minister of its own, but in that year the Secretaryship of State for External Affairs was joined by statute to the office of Prime Minister. In the future, however, as Canada's external relations gain in volume and importance, it may not be considered wise that the head of the Government should by law be forced to accept the added burden of the departmental work associated with External Affairs, and in that case a separation will be necessary.

Organization

The Canadian Department of External Affairs consists of the following offices:

Secretary of State for External Affairs.

(Office established 1912, and held by the Prime Minister).

Under-Secretary of State.

Assistant Under-Secretary of State.

Counsellor.

Legal Adviser.

together with the following offices abroad:

London—High Commissioner for Canada in the United Kingdom (Office established 1880).

Washington—His Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States (Office established 1926).

Paris—His Majesty's Envoy Extraordinary and Minister Plenipotentiary to France (Office established 1928).

Tokyo—His Majesty's Envoy Extraordinary and Minister Plenipotentiary to Japan (Office established 1929).



MACHINERY OF CO-OPERATION

Geneva—Canadian Advisory Officer, League of Nations (Office established 1924).

Expenses¹ incurred for the Department including the International Joint Commission under the Boundary Waters Treaty with the United States (1909), Conferences abroad, contribution to the Secretariat of the League, &c., together with expenditure of the offices abroad of the Department, have been:

	1930-1	1931-2	1932-3
Department of External Affairs . . .	\$ 525,631.92	\$ 530,454.08	\$ 678,822.07
High Commissioner's Office . . .	103,227.84	139,570.31	129,452.81
Canadian Legation, Washington . . .	81,785.45	98,858.82	91,000.15
Canadian Legation, Paris . . .	78,783.61	82,561.89	75,668.49
Canadian Legation, Tokyo . . .	78,064.99	78,568.17	71,714.04
Canadian Advisory Officer, League of Nations . . .	24,637.27	26,370.21	21,905.04
	\$892,131.08	\$956,383.48	\$1,068,562.60

The Department is the central and directing part of the whole External Service. Questions of policy are decided by the Secretary of State for External Affairs and instructions conveyed to the Legations and other offices abroad. Among other things it is the duty of the Department (*a*) to carry on or supervise communications with other British and foreign governments, (*b*) to prepare material in connexion with international and Imperial Conferences, (*c*) to consider policy and prepare material in connexion with the various League of Nations activities, (*d*) to draft, so far as Canada is concerned, treaties and conventions, and (*e*) to deal with the International Joint Commission and other international tribunals. These duties are of course carried out in co-operation with the other Departments of the Government interested in the question at issue, e.g. the

¹ From Auditor-General's *Reports*, 1931, 1932, and 1933.

National Defence Department in disarmament questions, the Fisheries Department in the Sockeye Salmon Treaty, the Interior Department in Niagara Falls water-power matters.

Within the Department an endeavour is being made to effect a definite allotment of duties. The small numbers of the staff and the frequent changes that result from the necessity of sending members of the Department to posts in Legations abroad, have made it impossible to secure the same degree of specialization that exists in older and larger Foreign Offices. Such division as at present exists is partly based on subject-matter, and partly on the governments or other bodies with which the Department has relations. The Assistant Under-Secretary, for example, deals with Consular and Passport matters and the preparation of confidential prints of diplomatic correspondence. The Counsellor, in addition to bearing the chief responsibility for treaty procedure, deals with United States and French questions. The Legal Adviser is charged with the legal work of the Department, advising on questions of international law, legal interpretation of treaties, and references to the International Joint Commission. The First Secretary is concerned chiefly with relations with other parts of the British Commonwealth. The Second Secretary specializes in commercial treaties and commercial relations generally, and deals also with Japanese relations. The senior Third Secretary devotes about half his time to League of Nations matters and, with a junior Third Secretary, assists in any question requiring investigation.

The work of the Accounting, Translating, Coding, Secretarial, and Stenographic Branches is in the main the same as that dealt with by similar branches in other Departments, though the fact that it concerns foreign governments and offices abroad increases the technical difficulties to be surmounted, e.g. by the Accounting, Translation, and Coding Staffs, and makes it necessary that the work of a large section of the staff should be of a confidential character. It may be noted that an attempt is being made

to build up an adequate library on international affairs, which, it is expected, will eventually be available for public, as well as for departmental, consultation.

Admission to the Department is through the medium of examinations held under the auspices of the Civil Service Commission. These examinations are based on those governing entrance to the Foreign Office and the British Diplomatic Service, and consist of a written and an oral test. An increasing measure of weight is being given to the personal factor as ascertained through oral interviews. The Government has the power, in addition, to appoint men by Order in Council, though this power has not been exercised in the cases of the present secretarial staff of the Department. Officers enter as Third Secretaries, and are eligible for promotion to the higher ranks.

Functions

Canada has attained a position of marked and growing international importance, and has become one of the leading countries in industrial production, foreign trade, and political significance. It will be recalled that in determining which countries were to be considered of 'chief industrial importance', and therefore entitled to permanent seats on the Governing Body of the International Labour Conference at Geneva, the official committee of the League ranked Canada fifth, or, on another basis of computation, sixth. Simultaneously with the growth of Canadian international interests, there has come a parallel growth in the extent to which Canada has herself undertaken the management of these interests by the establishment of a special department at Ottawa and a number of offices abroad. Thus the scope of the activities of the Department of External Affairs as a whole has expanded greatly in recent years.

Its duties may be divided roughly into two main classes, questions of governmental policy and the protection of individual interests, though each class shades into the other. Among the first class may be included matters concerning International Arbitration, Defence and Disarmament,

Trade and Tariffs (the Trade and Commerce Department deals with private individuals, the Department of External Affairs with governments), Immigration, Extradition, Double Nationality, Territorial Sovereignty, Boundary Waters disputes, Wireless Communication, international aspects of Taxation, &c. Among the individual issues which most frequently require attention are claims against foreign governments, deportation and immigration difficulties, imprisonment of Canadians abroad, seizure of Canadian vessels and goods, settlement of estates, complaints of discriminatory treatment in trade and taxation.

Replies to requests for information on Canadian affairs constitute a substantial part of the work of the Department, which is also charged with the issue of passports necessitated by the requirements of British and foreign Governments.

The means utilized for the discussion and settlement of the questions which come under the jurisdiction of the Department may be summarized as follows:

1. Communication with individual Governments:
 - i. through Canadian Envoys in foreign capitals or the Dominion High Commissioner in London;
 - ii. through Foreign Envoys or the British High Commissioner in Ottawa;
 - iii. through direct correspondence with the Secretary of State for Dominion Affairs in London and the Ministers of External Affairs of the other Dominions;
 - iv. through the British Diplomatic Service, by way of the Dominions and Foreign Offices; or direct.
2. International and Imperial Conferences.

An examination of the Reports of the Department will show the extent to which the Canadian Government has, in recent years, participated in international and Imperial Conferences. The arrangements for attending all such Conferences have been made in all cases through the Department of External Affairs, and the Department or one of its offices abroad has participated in them all. In

the case of the more technical conferences, the participation was of a somewhat formal character, but in the majority questions of policy were involved which were of immediate concern to the Department.

3. League of Nations.

Canada was for three years, 1927-30, represented on the Council of the League of Nations and is annually represented in the Assembly and participates in the work of the more important committees.

4. Treaties and Conventions.

Special mention may be made of the cases in which the settlement of outstanding questions takes the form of bilateral and multilateral treaties and conventions. The scope of this work may be indicated by the conventions referred to in the Reports of the Department.

5. International Joint Commission.

The International Joint Commission for the settlement of boundary waters disputes with the United States, while an independent tribunal, works in close co-operation with the Department which is responsible for the reference of questions to it.

THE HIGH COMMISSIONER FOR CANADA IN GREAT BRITAIN

With the federation of the Provinces of British North America in 1867, a new political entity which could not avail itself of the services of the provincial agents was brought into existence. To supplement the ordinary method of communication between the Canadian and United Kingdom Governments (which at that time was by correspondence between the Governor-General and the Secretary of State for the Colonies, and now is between the Secretary of State for External Affairs of Canada and the Secretary of State for Dominion Affairs in Great Britain), the position of High Commissioner for Canada was created in 1880.¹

¹ See *R.S.C.*, 1927, c. 92.

The duties of the office are defined in the Act as follows:

The High Commissioner shall

- (a) act as representative and resident agent of Canada in Great Britain, and in that capacity execute such powers and perform such duties as are, from time to time, conferred upon and assigned to him by the Governor in Council;
- (b) take the charge, supervision, and control of the immigration offices and agencies in Great Britain, under the Minister of Immigration and Colonization;
- (c) carry out such instructions as he, from time to time, receives from the Governor in Council respecting the commercial, financial, and general interests of Canada in Great Britain and elsewhere.

Sir Alexander Galt was the first Canadian High Commissioner, holding office from 11th May, 1880, until May, 1883, in which year he was succeeded by Sir Charles Tupper; Lord Strathcona and Mount Royal was appointed in 1896. Sir George H. Perley took charge of the High Commissioner's Office in 1914 but was appointed High Commissioner only on 12th October, 1917. The Hon. P. C. Larkin was appointed in February, 1922, and the Hon. G. H. Ferguson, K.C., in December, 1930.

Organization

The High Commissioner is assisted by a staff, the head of which is the Secretary of the Office. In addition, the following Canadian Government Departments have representatives at Canada House:

1. Immigration:

Director.

Director, Canadian Official Press Bureau.

Director, Medical Services.

2. Trade and Commerce:

Chief Trade Commissioner.

Canadian Government Exhibition Commissioner.

Canadian Trade Publicity Department.

Fruit Trade Commissioner.

3. Agriculture.

4. Soldiers' Civil Re-establishment.

5. National Revenue:
Investigator of Values.
6. Public Archives.
7. National Defence.

By an arrangement which came into operation during 1932, the activities of the above officials have been co-ordinated under the High Commissioner, who is thereby enabled to keep a personal supervision on all matters of importance which are being dealt with by the various branches of activity under his control.

Functions

The High Commissioner's Office is the centre of all the activities of the Federal Government of Canada in the United Kingdom, and its work accordingly covers a wide field, including:

1. Duties as a channel of communication between His Majesty's Government in Canada and His Majesty's Government in the United Kingdom, and in obtaining information in London on departmental matters.
2. Activities as agent for the Canadian Government in financial relations with foreign governments in connexion with the repayment of loans and of reparations, and with private firms in the purchase of supplies.
3. Supplying information to British inquirers as to Canadian agricultural and industrial resources, tariff and taxation laws and other conditions, including the publicity service offered by the national resources and industrial information branch of the office.
4. Providing assistance to Canadian business men and to Canadian tourists desiring to secure access to notable ceremonies and institutions.
5. Supplying delegates to International Conferences and to meetings of Inter-Commonwealth Committees, such as the Imperial and International Communications Ltd., the Empire Timber Committee, the Imperial Institute, the Imperial War Graves Commission, the Imperial Shipping Committee, and the Imperial Economic Committee.
6. Keeping the Department in Ottawa informed as to political and economic developments in the British Isles.

In general it may be said that the scope of the duties of the High Commissioner in London has been constantly widening. Hitherto when the Governments of Canada and the United Kingdom wished to consult on some matter of common concern, the communications would customarily be between the Dominions Office and the Department of External Affairs. The present tendency, however, is in the direction of greater utilization of the High Commissioner's Office.

CANADIAN AIR LIAISON OFFICER IN LONDON

The Office of the Royal Canadian Air Force Liaison Officer in the Air Ministry was permanently established in 1923, and exists for the maintenance of close liaison between the Royal Air Force and the Royal Canadian Air Force. The Officer appointed holds a commission in the Royal Canadian Air Force and is attached to the Directorate of Organization and Staff Duties. The Office comes under the wing of the High Commissioner and all matters involving policy and finance are submitted through the High Commissioner, but, on questions exclusively concerning organization and routine, communications are forwarded direct to the Senior Air Officer, Royal Canadian Air Force, Ottawa.

AGENTS-GENERAL IN THE UNITED KINGDOM FOR INDIVIDUAL PROVINCES

The older Provinces of Quebec, Ontario, and British Columbia still adhere to the practice of former days and are represented in London, the two former by Agents-General, and the latter at present by an Acting Agent-General. These officials are appointed by the Legislatures of the Provinces under general authority given in the British North America Act, and act for the Provincial Governments in capacities very similar to that of the High Commissioner, except, perhaps, that their duties have tended to become of a business rather than a diplomatic nature.

MACHINERY OF CO-OPERATION

AUSTRALIA

PRIME MINISTER'S DEPARTMENT

The Prime Minister's Department in Australia is the official channel of communication with the United Kingdom and the other Dominion Governments, although many of the questions are handled by the Department of External Affairs, if political, and the Department of Commerce or of Trade and Customs, if commercial. Subordinate to the Prime Minister's Department are the High Commissioner in the United Kingdom, the Official Secretary for Australia in the United States (New York), the Trade Representative in France (Paris), and the Trade Commissioner in Canada (Toronto). The three last-named offices are of a purely commercial character.

The Department administers Papua (formerly British New Guinea); Norfolk Island; the Territory of New Guinea (by mandate of the League of Nations); Nauru (under British Empire mandate administered jointly by the Commonwealth, the United Kingdom, and New Zealand).

DEPARTMENT OF EXTERNAL AFFAIRS

The Department of External Affairs in Australia deals with all questions affecting foreign and inter-Dominion political relations. The present Minister for External Affairs is also Attorney-General and Minister for Industry. (Previously the Prime Minister was also Minister for External Affairs.)

In 1924, when question arose as to the policy to be adopted by Australia with regard to information and consultation relating to External Affairs, the Commonwealth Government decided¹ that they would not appoint diplomatic representatives abroad but would continue to obtain information and to conduct negotiations through the Foreign Office of the United Kingdom and the existing British diplomatic representatives. This necessitated a closer liaison between the Foreign Office and the

¹ After a visit to Australia by Mr. A. W. Allen Leeper of the Foreign Office (see p. 228, below).

Commonwealth Government, which was effected by the establishment of an External Affairs Branch in the High Commissioner's Office in London under the control of an officer of such standing and character as to enjoy the confidence of the Foreign Office; such a representative is in a position to keep his Minister informed in regard to current events in connexion with foreign policy, and so to amplify the information which is conveyed to the Prime Minister regularly by cable and dispatch from the Dominions Office.

Organization and Functions

The Officers of the Commonwealth Department on External Affairs as at present constituted are accordingly:

- a. The Secretary (who is also Secretary to the Prime Minister's Department), an Assistant Secretary, who is in charge of the work of the Department and deals also with foreign relations, and an Assistant who deals with League of Nations matters.
- b. The External Affairs Officer in London, who is attached to the staff of the High Commissioner for purposes of consultation on inter-Imperial and foreign affairs. On such matters he communicates, on behalf of the High Commissioner, direct with the Department of External Affairs.

The Department of External Affairs in Canberra is responsible for keeping up to date all information regarding matters affecting Australian foreign relations and political relations with the other Dominions, and is also responsible for submitting, when necessary, opinions on matters which have come under the consideration of the Government. The Foreign Relations Section deals with what may be described as foreign relations proper, including League of Nations matters of a political character, and conferences of a political character, e.g. those which have dealt with the question of Reparations. The League of Nations Section deals with all the multifarious matters dealt with by the League of Nations except those which are essentially political, such as disarmament and security and arbitration questions. This section also deals with all international conferences other than those of a political character.

The office in Canberra is supplied regularly with a large amount of information through the Dominions Office, but the essential link between the office in Canberra and the outside world is the External Affairs Officer in London.¹ This Officer has direct access to and is in constant touch with the Foreign Office, the Dominions Office, and the other Departments of State, and so is in a position to keep the office in Canberra fully and regularly informed. He is available when necessary for informal discussions with the Foreign Office, or to act as Australian Observer in negotiations intimately concerning Australia and to go to Geneva as Adviser on political questions before the League of Nations.

THE HIGH COMMISSIONER FOR THE COMMONWEALTH OF AUSTRALIA IN THE UNITED KINGDOM

The office of the High Commissioner of the Australian Commonwealth in the United Kingdom was created by the High Commissioner Act of the Federal Parliament (No. 22 of 1909), assented to on 13th December, 1909. The first High Commissioner (the late Sir G. H. Reid) took up his duties in February, 1910, at offices in Victoria Street, Westminster. The foundation stone of Australia House was laid by His Majesty the King on 24th July, 1913, on a site in the Strand purchased from the London County Council, and the completed building was opened by His Majesty on 3rd August, 1918.

The holders of the office of High Commissioner to date have been: the Rt. Hon. Sir G. H. Reid, 1910-15; the Rt. Hon. Andrew Fisher, 1916-21; the Rt. Hon. Sir Joseph Cook, 1921-27; Major-General Sir Granville de Laune Ryrie, 1927-32. The present High Commissioner is the Rt. Hon. S. M. Bruce, C.H., appointed in 1933.

In September, 1932, shortly after the conclusion of Sir Granville Ryrie's term of office, the Rt. Hon. S. M. Bruce, after attending the Imperial Conference at Ottawa, arrived in London and, in addition to his duties as Minister

¹ See Imperial Conference, 1930; *Summary of Proceedings, Cmd. 3717*, p. 28.

without portfolio, took over the powers and functions of the High Commissioner, pursuant to the provisions of the High Commissioner Act of 1932.¹ The operation of this Act by which a Minister might be authorized to exercise the powers of the High Commissioner is limited to two years. It was not intended to make a permanent change in the status of the High Commissioner. The presence of a Minister in London was opportune for the conduct of important financial operations, but, upon their completion, Mr. Bruce resigned from the Cabinet, and was appointed High Commissioner, from 7th October, 1933, for the usual term of five years.

Organization

The High Commissioner is assisted by a secretarial and technical staff under the control of an Official Secretary. The organization includes an Economic Adviser, a Finance Branch, an Intelligence Branch, a Commercial Branch, a Veterinary Officer, a Dairy Officer, a War Pensions Branch, a Customs Branch and officers appointed to assist the High Commissioner in matters relating to the Naval, Military, and Air Forces of Australia, and External Affairs. These four officers are required to keep in close touch with the Foreign Office, Admiralty, War Office, and Air Ministry in the United Kingdom in order to facilitate co-operation between the United Kingdom and Australia. On matters of routine they communicate directly with their Departments in Australia.

Functions

The functions of the office of the High Commissioner for the Commonwealth of Australia may be summarized as follows:

- i. Whilst the normal official channel of communication between the Commonwealth Government and the Government of the United Kingdom is through the Prime Minister of Australia to the Secretary of State for Dominion Affairs, the

¹ See p. 227, below.

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- services of the High Commissioner are constantly utilized in negotiations between those Governments, and the tendency is to increase this personal consultation.
- ii. The High Commissioner acts as Agent for the Commonwealth in negotiating loans and in arranging for their repayment, which is actually effected by the Commonwealth Bank.
 - iii. The High Commissioner's Office gives information in answer to inquiries regarding Australian natural and industrial resources and Commonwealth matters generally, and provides information and advice to Australian business men who have trade relations with or contemplate opening up business with the United Kingdom.
 - iv. It supplies the Commonwealth Government with reports regarding market conditions in the United Kingdom and generally assists in furthering the export business of Australia.

AGENTS-GENERAL IN THE UNITED KINGDOM FOR THE INDIVIDUAL STATES OF THE COMMONWEALTH

When the office of High Commissioner for the Commonwealth was established in 1909, the framers of the Act foreshadowed the possibility that in the course of time the new office would eliminate the need for separate State representation in London.¹ This anticipation has not been realized, however, and the six constituent States (New South Wales, South Australia, Tasmania, Victoria, Queensland, and Western Australia) are still separately represented in London.

NEW ZEALAND

PRIME MINISTER'S DEPARTMENT

All communications with His Majesty's Government in the United Kingdom, whatever the subject-matter, pass through the Imperial Affairs Branch of the Prime Minister's Office and are forwarded by the Prime Minister through the Governor-General of the Dominion (who, as stated above, continues to be the official representative of the Government of the United Kingdom as well as of His

¹ See High Commissioner Act, 1909, Section 5.

Majesty the King) to the Secretary of State for Dominion Affairs. The latter, when the matter involves foreign relations, confers with the Foreign Office. Communications and information from His Majesty's Government in the United Kingdom come to the New Zealand Government through the same channels. It is not the practice to keep the High Commissioner for New Zealand in London informed of these communications, except where the New Zealand Government requires him to take action in, or to expedite, any particular matter.

Communications with other Dominions are generally carried on between Prime Minister and Prime Minister.

DEPARTMENT OF EXTERNAL AFFAIRS

Minister of External Affairs—Portfolio customarily held by the Prime Minister.

Secretary, who is also Imperial Affairs Officer, Prime Minister's Department.

The External Affairs Act, 1919, as amended by the External Affairs Amendment Act, 1920, provides for the appointment of a Minister of External Affairs, a Secretary for External Affairs, and a staff of the Department.

The Minister of External Affairs, which office, as stated above, is held at present, and generally as a matter of custom, by the Prime Minister, is charged with the administration of the government of any territory out of New Zealand¹ which may at any time be a dependency of New Zealand or otherwise be under the jurisdiction of the Government of New Zealand. As regards such dependencies or territories the Department of External Affairs is concerned at present with the administration only of Western Samoa, for which New Zealand holds a mandate from the League of Nations, and Niue.

The Minister is also charged with such other administrative functions relative to the external affairs of

¹ The Cook Islands are an exception to this rule. The Island of Niue is administered by the Minister of External Affairs, but the rest of the group are administered by a special Minister for the Cook Islands.

the Dominion of New Zealand as the Governor-General in exercise of his lawful authority may think fit to entrust to him.

In executing the documents relating to Foreign Affairs and Full Powers or Ratifications, the Prime Minister signs both as Prime Minister and Minister of External Affairs.

Generally speaking New Zealand's relations with foreign nations are conducted through His Majesty's Government in the United Kingdom and the diplomatic representatives of that Government, and in such cases communications to foreign governments go through the following channels: His Excellency the Governor-General, the Secretary of State for Dominion Affairs, the Secretary of State for Foreign Affairs, and the British Ambassador or Minister in the foreign State concerned. Such communications are largely confined to matters of general international importance. There are three exceptions to this general rule of communication through His Majesty's Government in the United Kingdom:

1. All League questions are handled directly between His Majesty's Government in New Zealand and the Secretary-General of the League.
2. In commercial matters from time to time direct negotiations have taken place with foreign countries. Two instances of direct communication are the exchange of notes with Japan¹ and the recent commercial negotiations with the Economic Union of Belgium and Luxembourg.²
3. At international conferences in which New Zealand is concerned the Dominion is represented separately and individually, for example, at the London Naval Conference.

Apart, however, from affairs of general international

¹ N.Z. Parliamentary Paper, A 6, 1928.

² Trade Arrangement (New Zealand and Belgium) Ratification Act, No. 24, 1933.

importance such as the League of Nations, the Briand-Kellogg Pact, Reparations, Disarmament, &c., the impact of New Zealand or New Zealanders on world affairs or on nationals of foreign Powers is limited, and though the Diplomatic and Consular representatives of His Majesty's Government in the United Kingdom are at the service of His Majesty's Government in New Zealand and function in respect of foreign passports, visas, &c. (which are dealt with by the New Zealand Department of Internal Affairs) in exactly the same manner as in the case of any other British territory, the necessity for utilizing their services directly arises very rarely.

The Government is advised on legal matters by the Solicitor-General and the Crown Law Office in London.

The cost of the Department for 1932-3 was £83,094, and the estimates for the year 1933-4 amount to £87,700.

Official Representation Abroad

New Zealand has no permanent official representing her at Geneva; the New Zealand Government usually finds it convenient to appoint the High Commissioner in London to represent her at the meetings of the League of Nations.

The official representatives of New Zealand abroad are nearly all Tourist or Trade Commissioners, the principal being a Tourist and Trade Commissioner in the Commonwealth of Australia, stationed in Sydney, with a branch office at Melbourne; a Trade Commissioner for both Canada and the United States, stationed at Toronto; an official representative of the New Zealand Customs Department for Canada and the United States stationed at New York; a Government Agent at Vancouver; and a Resident Agent at San Francisco.

The United Kingdom, Canada, and the United States of America are represented in New Zealand by Trade Commissioners; the Canadian Trade Commissioner is stationed at Auckland, the other two in Wellington.

THE HIGH COMMISSIONER FOR NEW ZEALAND IN THE
UNITED KINGDOM

The High Commissioner for New Zealand is appointed by the Governor-General in Council for a period not exceeding three years. He is eligible for reappointment, is exempt from the Civil Service Acts, and receives a salary of £2,000 a year (subject at present to a 10 per cent. reduction) and travelling allowance not to exceed £400 in any one financial year. He may not join the directorate or advisory board of any public company or trading corporation, whether registered or not.

Organization

The High Commissioner is assisted by the following:

Secretary and Loan and Stock Agent.

Publicity and Exhibition Officer.

Trade and Produce Officer.

Librarian and Intelligence Officer.

Finance Officer, Accountant, and Loan and Stock Agent.

Audit Officer.

Customs Department Representative.

Dairy Produce Officer.

Liaison Officer, Department of Scientific and Industrial Research.¹

Functions

The duties of the High Commissioner are to:

- a. Act as representative of New Zealand in the United Kingdom and to exercise such powers and perform such duties as are conferred upon and assigned to him by the Governor-General.
- b. Carry out such instructions as he receives from the Government respecting the commercial and financial and general interests of New Zealand in the United Kingdom and elsewhere.

On 24th August, 1928, the Prime Minister of New Zealand made a statement in the House of Representatives as to the question discussed at the Imperial Conference

¹ For note on this officer, see p. 206.

of a more permanent liaison between various parts of the Empire. He said that

various systems had been thought out and the one that New Zealand was trying out was to have a member of the Foreign Office in New Zealand, and for New Zealand to select a member of the New Zealand Civil Service to be drafted home as a Liaison Officer to the High Commissioner. With such an arrangement the High Commissioner, through that Officer, could get additional information from the Foreign Office and other Departments of State; and the Foreign Office, on the other hand, through the Prime Minister's office in New Zealand, could get fuller and further information as to the general attitude of the Dominion upon foreign questions in the Pacific or elsewhere. . . . Mr. Nichols, a Liaison Officer appointed by the Foreign Office, had been able to save the Government hundreds of pounds in cable expenses by the information he could supply.¹

Mr. P. B. B. Nichols was appointed on 26th January, 1928, but returned to England on 2nd July, 1930, and has not been replaced. His salary was paid by the United Kingdom Government.

Criticism of the proposal to appoint a New Zealand Liaison Officer to London was made in the House of Representatives on 6th July, 1928, by Sir James Allen, who said that

in his judgement the proper and safest course to pursue was to allow their representative in London to become their mouthpiece as far as they possibly could. That representative was the High Commissioner, and to establish another representative responsible to the Prime Minister direct was a false move.²

The appointment of the proposed Liaison Officer has never yet been carried out.

The estimated expenditure for the Office of the High Commissioner for the year 1932-3 was £44,619,³ and for the year 1934-5 amounts to £35,966.

¹ *Journal of Parliaments of the Empire*, vol. x, No. 1, pp. 115-16.

² *Ibid.*, vol. ix, No. 4, p. 1008.

³ This figure contained certain payments which were attributable to the previous financial year.

SOUTH AFRICA

DEPARTMENT OF EXTERNAL AFFAIRS

The Ministry of External Affairs was first constituted on 1st June, 1927, the first holder of the office being the present Prime Minister of the Union, the Hon. J. B. M. Hertzog. The Department is charged with the duty of communicating with His Majesty's Governments and Administrations in the British Empire, with foreign governments, and with the League of Nations.¹ It is organized in four sections, one dealing with External Affairs generally, another with League of Nations matters, a third with coding, and the last with accounts.

Though young in years the Department is fast achieving a place of prominence in South African Administration due, in large measure, to South Africa's acceptance of her own responsibilities² in the international sphere which is resulting in the progressive establishment of independent representation abroad in respect of affairs relating to the Union of South Africa, which hitherto have been conducted through the ordinary British diplomatic channels. The diplomatic representatives of the Union both in the United Kingdom and in foreign countries are charged with the care of South African interests in their respective spheres. In addition to his functions as the official channel of diplomatic communication and negotiation between the Union Government and the Government to which he is accredited and the innumerable routine duties in connexion with passports, visas, and kindred international amenities which devolve upon him, each Union Minister abroad is an important factor in the extension of South African trade, the concerns of which occupy no small proportion of his time. Accordingly the Department of External Affairs, as that responsible for the direction and

¹ The Prime Minister is responsible for communications with the mandated territory of South-West Africa. The exercise of this mandate is vested in the Governor-General who delegates his power to an administrator appointed by the Union Government.

² See p. 78 for a full list of the Union's present and prospective representatives abroad.

co-ordination of these many activities, is quickly expanding both in complexity and importance.

For purposes of consultation in inter-Imperial and foreign affairs and to keep the Department in the Union fully informed on such matters, the High Commissioner in the United Kingdom has on his staff a special Political Secretary, a member of the staff of the Department of External Affairs, who communicates on behalf of the High Commissioner with that Department.

The total expenditure for 1932-3 was £74,716; that for 1933-4¹ was £92,360, allocated as follows:

Department of External Affairs	£ 18,612
League of Nations	29,010 ²
Legation at Rome	11,094
Legation at Washington	12,882
Legation at The Hague including Consulate at Hamburg	14,573
Consulate at Lourenço Marques	4,792
Office of Political Secretary to the High Commissioner	<u>1,397</u>
	<u>£92,360</u>

Organization

The personnel of the Department consists of the following:

- Prime Minister and Minister for External Affairs.
- Secretary to the Prime Minister and Secretary for External Affairs.
- Under-Secretary to the Prime Minister and Under-Secretary for External Affairs, and Clerk of Executive Council.

together with the following offices abroad:

- London—High Commissioner for the Union in the United Kingdom.
- The Hague—Envoy Extraordinary and Minister Plenipotentiary to Holland.
- Commercial Secretary.

¹ Estimates for year ending 31st March, 1934.

² This includes the Union's annual contribution of £19,560.

Rome—Envoy Extraordinary and Minister Plenipotentiary to Italy.

Commercial Secretary.

Washington—Envoy Extraordinary and Minister Plenipotentiary to the United States.

Geneva—Accredited Representative to the League of Nations.

Lourenço Marques—Consul-General.

Hamburg—Consul.

Jerusalem—Commissioner for the Union in Palestine.

Nairobi—Commissioner for the Union in British East Africa.

There is also a Trade Commissioner for the Union in Montreal, and there are Hon. Trade Commissioners in Rotterdam, Oslo, Genoa, Paris, Gothenburg, San Francisco, Vancouver.

HIGH COMMISSIONER FOR THE UNION OF SOUTH AFRICA IN THE UNITED KINGDOM

The office of High Commissioner was created by Act No. 3 of 1911, and its functions are divided broadly as between political affairs, trade, railway, and publicity and general administration.

The principal sub-officers are:

Political Secretary.

Secretary.

Trade Commissioner.

Director, Publicity and Travel Bureau.

Advisory Engineer.

Accountant.

The office exists for the representation of the Government of the Union in the United Kingdom and to do service as an agency of the Union in London for financial, commercial, and other purposes, including service on behalf of the South African Railways and Harbour Administration, the Provinces, the Electricity Supply Commission, and the South African Iron and Steel Corporation, Ltd.

'The expenditure of the office for the year 1933-4 amounted to £65,949.

IRISH FREE STATE

THE DEPARTMENT OF EXTERNAL AFFAIRS

The present Free State Department of External Affairs had its origin in the Ministry for Foreign Affairs set up by Dáil Eireann prior to the Anglo-Irish Treaty in January, 1919, which was followed by the Ministry of External Affairs of the Provisional Government. The Department was given its present designation by the Ministries and Secretaries Act, 1924.

Organization

The President of the Irish Free State is the present Minister for External Affairs.

The principal officers of the Department are:

The Secretary.

The Assistant Secretary.

The Legal Adviser.

with the following offices abroad:

London—The High Commissioner in Great Britain.

The Secretary to the High Commissioner in Great Britain.

Washington—Envoy Extraordinary and Minister Plenipotentiary to the United States of America.

Rome—Envoy Extraordinary and Minister Plenipotentiary to the Holy See.

Paris—Envoy Extraordinary and Minister Plenipotentiary to France and Belgium.

Berlin—Envoy Extraordinary and Minister Plenipotentiary to Germany.

Geneva—Permanent Delegate accredited to the League of Nations.

New York—Consul-General.

Boston (Mass.)—Consul.

Function

The function of the Department is the administration of public services in connexion with communications and transactions with other Governments, appointment of diplomatic and consular representatives abroad, responsibility for international amenities and the grants of passports and visas. The Department is in the first instance the normal, and in practice the only, channel of communication between the Executive Council of the Free State and the Governments of the United Kingdom and the Dominions. It is the competent authority for all questions relating to inter-Imperial relations, legal, political, and economic. The representation of the Free State at Imperial Conferences has in increasing measure devolved on the head of this Department. The scope of the Department further includes all matters connected with commercial and financial relations, trade treaties, deportation, extradition, and repatriation, the administration of estates of nationals deceased abroad, the legalization of documents, and the registration of Irish citizens.

It should be noted that in 1931 the right of the Free State was established to have its own seal for ratifying treaties so that the formal intervention of the British Government, which was necessary before the Great Seal¹ could be used for such purpose, might be dispensed with. This right is of fundamental importance, for it removes a power which the British Government formerly possessed in law of securing consideration for any proposed action which might injure the rights of other Dominions or of the United Kingdom.

The estimated expenditure of the Department for the year 1933-4 was £15,387, and for the year 1934-5 amounts to £15,792.²

¹ For the use of the Great Seal of the Realm in the negotiation and ratification of Treaties by the Dominions, see Part II, section 2, p. 137, below.

² The actual figure of the estimate is £20,792, but this includes £5,000 as advance for the purchase of stamps from the Revenue Commissioners for the collection of fees for the issue and endorsement of passports and for consular services.

THE OFFICE OF THE HIGH COMMISSIONER IN THE UNITED
KINGDOM

The High Commissioner is the official representative of the Irish Free State in the United Kingdom. All diplomatic and trade negotiations and inter-departmental communications between the two Governments pass through his hands. He also acts as the official representative of the Irish Free State at such conferences as the Department of External Affairs may require.

Organization

Under the High Commissioner, and controlling the staff of the office, are:

The Secretary.

The Higher Executive Officer.

The Trade Officer.

Broadly speaking, the office is divided into two sections, (i) the Secretariat, and (ii) the Trade branch.

i. The Secretariat consists primarily of those engaged in facilitating the progress of diplomatic communications between the Irish Free State and the United Kingdom and, in addition, performs those special duties of inter-departmental liaison which, in the offices of the High Commissioners of the more distant Dominions, tend to be confided to special liaison officers.

ii. The Trade Branch of the office of the High Commissioner is primarily concerned with promoting the marketing of Irish produce in the United Kingdom. It is responsible for all official publicity and exhibitions relating thereto. This Branch also supplies information as to Irish agricultural and industrial resources, tariffs and trade regulations and related matters.

The estimated expenditure for the office of the High Commissioner for the year 1933-4 was £8,964, and for the year 1934-5 amounts to £9,812.

NEWFOUNDLAND

DEPARTMENT OF HOME AFFAIRS

Prior to 1934, the conduct of external affairs in Newfoundland was one of the functions of the Department of the Secretary of State, but with the assumption of office by

the Commission of Government on 14th February, 1934, the whole machinery of administration was reorganized and external affairs are now conducted by the Department of Home Affairs under the Commissioner for Home Affairs.

Departmental communications of a subordinate character from a Government Department in Newfoundland to a Government Department in the United Kingdom are sent direct to the Department concerned, but communications of State importance take the form of Governor's Dispatches and are addressed to the Secretary of State for Dominion Affairs. Prior to the discontinuance of the office of High Commissioner on 30th June, 1934, departmental communications were transmitted through the High Commissioner in London and copies of most of the Governor's Dispatches were sent to him for information.

Communications between the Government of Newfoundland and any other Dominion are sent direct to the government concerned.

Communications with foreign Governments fall naturally within the category of matters of State and so proceed direct from the Governor to the Dominions Office and then on, through the Foreign Office, to the Governments concerned. Before 30th June, 1934, communications of lesser interest bearing on foreign relations might originate in the Department of Home Affairs and be sent through the High Commissioner to the Dominions Office and so to the Foreign Office.

Organization

The chief officers of the Department are:

The Commissioner for Home Affairs.

The Secretary.

THE OFFICE OF HIGH COMMISSIONER FOR NEWFOUNDLAND IN THE UNITED KINGDOM (*discontinued 30th June, 1934*)

A High Commissioner's office for Newfoundland was first opened in London in 1918, and was later given statutory foundation by the High Commissioner Act, 1921.

The office of High Commissioner has been held by Sir Edgar Bowring (1918-22), Captain Victor Gordon (Acting, 1922-3; in full office, 1923-8), and Sir John R. Bennett (1928). The High Commissionership was then vacant for over three years, but in 1932 Mr. D. James Davies, C.B.E., was appointed Acting High Commissioner, holding office until May, 1933. Sir Edgar Bowring was then reappointed and held office until its discontinuance on 30th June, 1934.

Organization

The chief officers under the High Commissioner were:

The Secretary.

The Assistant Secretary and Accountant.

Functions

The main functions of the office of High Commissioner were the following:

- i. The High Commissioner was the official agent for the Government of Newfoundland in the United Kingdom and the official link between the respective Government Departments.
- ii. The office disseminated information respecting Newfoundland legislation, passports, customs duties, taxation laws, trade regulations, natural resources, and financial and business conditions.
- iii. The High Commissioner or members of his staff served on the Imperial Economic Committee, the Imperial War Graves Commission, the Board of Trade Advisory Committee, the Board of Governors of the Imperial Institute, the Empire Timbers Committee and lesser bodies.

TRADE COMMISSIONER FOR NEWFOUNDLAND IN THE UNITED KINGDOM (*appointed 1st July, 1934*)

In May, 1934, the Commission of Government in Newfoundland intimated its intention of abolishing the office of High Commissioner, which was accordingly discontinued as from 30th June, 1934. The High Commissioner's place has been taken by a Trade Commissioner who will confine himself exclusively to matters of a com-

mmercial significance. With the resumption of self-government the entire position will doubtless be reviewed.

SOUTHERN RHODESIA

CONDUCT OF EXTERNAL AFFAIRS

The conduct of external affairs is the joint responsibility of the Department of Internal Affairs and the Department of Finance which are quite distinct from one another, being separately organized and responsible to different ministerial heads. This complexity in the maintenance of external relations arises from the fact that the office of the High Commissioner for Southern Rhodesia in the United Kingdom is attached somewhat anomalously to the Department of Finance: hence that Department cannot avoid maintaining a close interest in the conduct of external affairs despite the fact that the bulk of the communications originate in the Department of Internal Affairs which is the Department most practically concerned.

All communications with the Government of the United Kingdom, with the exception of Governor's Dispatches, are sent through the High Commissioner in London to the appropriate Secretary of State. In consulting with any of the other Dominions, the Government of Southern Rhodesia communicates direct with the government concerned. Any communications with foreign governments are forwarded by the Governor in Council through the Dominions Office to the Secretary of State for Foreign Affairs and thus take effect through the ordinary channels of the British Diplomatic Service. Passports are issued in Southern Rhodesia by the Department of Internal Affairs and in London they are secured by the High Commissioner through the appropriate United Kingdom office.

THE OFFICE OF THE HIGH COMMISSIONER IN THE UNITED KINGDOM

The office of the High Commissioner for Southern Rhodesia in the United Kingdom was established in October, 1924, a year after the grant of responsible government to the Colony (September, 1923).

The first High Commissioner was Sir Francis Newton, K.C.M.G., C.V.O. (1924-30), and the present occupant of the office is the Hon. J. W. Downie, C.M.G.

Organization

The High Commissioner has, under his immediate direction, the following sub-officers:

The Official Secretary.
Land Settlement Officer.
Accountant.
Publicity Officer.
Buying and Shipping Officer.

Functions

The High Commissioner is the official representative of the Colonial Government in the United Kingdom and the work of his office covers a very wide field.

- i. It is the official channel of communication between His Majesty's Government in Southern Rhodesia and His Majesty's Government in the United Kingdom.
- ii. It acts as the agent of the Colonial Government in arranging the raising of loans and their repayment.
- iii. It supplies information to all inquirers as to Southern Rhodesian agricultural and industrial resources, tariff laws and trade regulations: it also has charge of all official publicity for the promotion of further markets for the colony's products in the United Kingdom.
- iv. It provides assistance for business men and tourists from Southern Rhodesia desiring to secure access to notable ceremonies and institutions.
- v. It supplies delegates to such Imperial and international committees and conferences as the Colonial Government may require.
- vi. It effects the payment of pensions to retired Civil Servants and to retired officers of the British South Africa Police.
- vii. It acts as an immigration and land settlement agency on behalf of the Rhodesian Government.
- viii. It obtains information in London on matters of Imperial and foreign concern and keeps the Government of Southern

Rhodesia fully informed thereon. In general it may be said that the scope of the functions of the office have been constantly widening, inter-governmental communications and trade negotiations being more and more handled through the agency of this office.

The estimated expenditure for the office of the High Commissioner for the year 1933-4 was £18,536, and for the year 1934-5 amounts to £20,120.

C. India and the Conduct of Foreign and Inter-Imperial Politics

The present situation regarding the Constitution of India necessitates a somewhat different treatment from that accorded to the Dominions; and it has seemed inadvisable to describe in detail the existing administrative machinery in India since the future of such machinery is dependent on development with regard to the new Constitution.

The plan has, therefore, been adopted of quoting such descriptions from the Simon Report and from the White Paper of 15th March, 1933,¹ as are directly relevant to the conduct of foreign and inter-Imperial politics.

The Existing System

According to memoranda submitted to the Simon Commission the position with regard to these matters is as follows:

In the spheres of foreign and 'inter-Imperial' policy the task of co-ordination between the Governor-General in Council and His Majesty's Government falls to the Secretary of State. He has first-hand knowledge of the policy of His Majesty's Government, and it is his function to ensure that in matters of high policy the British policy is adhered to, but that 'the maximum possible effect, consistent with this primary requirement, is given to the Government of India's view'². . . .

It is obvious that India, under her present Constitution, cannot have a separate foreign policy of her own, and that in major questions

¹ *Proposals for Indian Constitutional Reform, Cmd. 4268.*

² *Indian Statutory Commission*, vol. v, pp. 1640-1, para. 17.

of foreign policy she must be guided by His Majesty's Government. . . .¹ [In this respect] the position of India is most clearly differentiated from that of the Dominions. It is still recognized that a common policy in foreign affairs between Dominion Governments and His Majesty's Government is very desirable, but it has also long been recognized that the machinery for obtaining it is very imperfect. India here has an advantage, of a kind, over the Dominions in that co-ordination of the views of the Government in India and in Great Britain, and the modifications of the latter to suit the former, does not depend on occasional Imperial Conferences, long-range correspondence, the activities of subordinate liaison officers and the other devices on which the Dominions have to rely. India has a spokesman in the British Cabinet itself, who at each turn of events can represent her interests and the views of her Government, and who can ensure that the greatest possible effect is given to them which is consistent with the wider information and the general policy of the Government at home. But this advantage carries with it a necessary implication. If the Government in India desires action on a first-class question of foreign policy, they must attempt to persuade His Majesty's Government; if, in spite of the full opportunity which they enjoy for making representations, the policy of His Majesty's Government cannot be adjusted to meet their views, India cannot utilize her international status to take an independent line of action. In regard to controversial inter-Imperial questions the conditions are slightly different, but the result is the same²....

Though India, unlike the Self-governing Dominions, does not formally enjoy an independent position in the sphere of foreign policy, she is possibly more continuously and practically concerned with foreign policy than any of them. For this her vast land frontier, and, to a much less extent, the existence of French and Portuguese possessions within the Indian Sub-Continent, are immediately responsible. It is true that she is not entitled to accredit Ministers to Foreign States. Yet His Majesty's Minister at Kabul was appointed from the Indian Political Department; so was the British Envoy at the Court of Katmandu and also the officer in charge of His Majesty's relations with Tibet; and India supplies consular officers in Afghanistan, Persia, Arabia, and Kashgar. With His Majesty's Government's relations in all these areas the Indian Foreign Office is intimately concerned and advises His Majesty's Government on them continuously. And His Majesty's Govern-

* ¹ Ibid., para. 18.

² Ibid., p. 1642, para. 20.

ment's policy in them is framed in close and constant consultation with the Government of India.¹

Communication of Government of India with outside Authorities

Before 1919 the Government in India were not permitted, with certain exceptions, to communicate with authorities elsewhere otherwise than through the India Office. They now have greater latitude, but the Secretary of State is still, generally speaking, the prescribed channel for correspondence on important issues of policy and for communications addressed to the League of Nations and the International Labour Office, except those on routine matters or relating to the supply of information. Communications regarding signature of, or accession to, or ratification of, international instruments are not made direct by the Government in India to the international authority.²

India enjoys the privilege of direct negotiation and correspondence with the Governments of the self-governing Dominions, subject to certain limitations, and representation in other parts of the Empire by means of Agents and Trade Commissioners.

External Affairs and the New Constitution

With regard to the conduct of external affairs under the new Constitution, the following proposals are put forward by His Majesty's Government in their White Paper issued on 15th March, 1933:

The executive power and authority of the Federation will be vested in the King and will be exercised by the Governor-General as his representative, aided and advised by a Council of Ministers responsible to a Legislature containing representatives both of British India and of the States. . . . [But] the transfer of responsibility at the centre [i.e. to the Council of Ministers] will not be co-extensive with the Federal Government's activities. Certain departments, namely, those concerned with Defence, External Affairs, and Ecclesiastical Administration, are to be entrusted to the Governor-General personally, and these matters he will control in responsibility to His Majesty's Government and Parliament³. . . .

¹ Ibid., p. 1334, para. 4.

² Ibid., p. 1647, para. 28.

³ Cmnd. 4268, p. 9, para. 14.

For the purpose of assisting him in the administration of the Reserved Departments the Governor-General will be empowered to appoint at his discretion not more than three Counsellors, whose salaries and conditions of service will be prescribed by His Majesty in Council. The Governor-General will not be restricted in any way in his choice of those Counsellors; the sole consideration will be to select the individual best suited, in the Governor-General's opinion, for the office, wherever he may be found. The Counsellors will be *ex-officio* members of both Chambers of the Legislature, though without the right to vote.¹

Although the Reserved Departments will be administered by the Governor-General on his sole responsibility it would be impossible in practice for the Governor-General to conduct the affairs of these Departments in isolation from the other activities of his Government, and undesirable that he should attempt to do so, even if it were in fact possible. A prudent Governor-General would therefore keep his Ministers and the advisers whom he has selected to assist him in the Reserved Departments in the closest contact; and, without blurring the line which will necessarily divide on the one hand his personal responsibility for the Reserved Departments, and, on the other hand, the responsibility of Ministers to the Legislature for the matters entrusted to their charge, he would so arrange the conduct of executive business that he himself, his Counsellors, and his responsible Ministers are given the fullest opportunity of mutual consultation and discussion of all matters—and there will necessarily be many such—which call for co-ordination of policy. His Majesty's Government intend to secure the embodiment of this principle in appropriate terms in the Governor-General's Instrument of Instructions. . . At the same time it will make it clear, without ambiguity, that whatever consultation between the Governor-General and his responsible Ministers may take place upon matters arising in the Reserved Departments, the responsibility for the decisions taken is the Governor-General's and the Governor-General's alone.²

It is also proposed that the Constitution Act shall lay down that 'for certain clearly indicated general purposes' the Governor-General has a 'special responsibility' and it shall confer on him, for securing these purposes, special powers which shall be exercised in accordance with directions to be set out in his Instrument of Instructions, to the

¹ Ibid., p. 10, para. 15.

² Ibid., p. 12, para. 23.

effect that he shall be guided by the advice of his Ministers, unless 'so to be guided would, in his judgment, be inconsistent with such "special responsibility"'.

Amongst those purposes for which it is proposed he should have 'special responsibility' are:

- i. The prevention of grave menace to the peace or tranquillity of India or of any part thereof;
- ii. the safeguarding of the financial stability and credit of the Federation;
- iii. the safeguarding of the legitimate interests of minorities;
- iv. the securing to the members of the Public Services of any rights provided for them by the Constitution and the safeguarding of their legitimate interests;
- v. the protection of the rights of any Indian State;
- vi. the prevention of commercial discrimination;
- vii. any matter which affects the administration of the Reserved Departments.¹

With regard to item (vii) it is apparent that if, for example, the Governor-General were to be free to follow his own judgement in relation to Defence policy only in regard to matters falling strictly within the ambit of the department of Defence, he might find that proposals made in another department in charge of a responsible Minister are in direct conflict with the line of policy he regards as essential for purposes connected with Defence, and consequently that the discharge of his responsibilities for Defence would be gravely impaired if he accepted the advice of the Minister responsible for the charge of the other department in question. If, therefore, such a situation is to be avoided, it is impossible to secure the object in view otherwise than by expressing the Governor-General's 'special responsibility' in some such terms as those indicated in item (vii).²

The object of the Governor-General's special responsibility for 'the safe-guarding of the financial stability and credit of the Federation' is to confer on him powers to step in, if the need should arise, in the event of the policy of his Ministers in respect, for example, of budgeting or borrowing being such as to be likely in the Governor-General's opinion to endanger seriously the provision of resources to meet the requirements of his Reserved Departments or any of the obligations of the Federation, whether directly or indirectly by prejudicing India's credit in the money markets of the world.³

¹ Ibid., p. 14, para. 25.

² Ibid., p. 15, para. 27.

³ Ibid., p. 16, para. 31.

Thus,

if, in discharge of his responsibility for a Reserved Department, or of a special responsibility, the Governor-General decides that a legislative measure or a vote of supply to which the legislature has not assented is essential, his special powers will enable him to secure the enactment of the measure or the provision of the supply in question, but Ministers will not have any constitutional responsibility for his decision.¹

Provision is made for the relations between the Governor-General and the Secretary of State:

In so far as the Governor-General or a Governor is not advised by Ministers, the general requirements of constitutional theory necessitate that he should be responsible to His Majesty's Government and Parliament for any action he may take and that the Constitution should make this position clear.²

The Indian States

With respect to the external relations of the Indian States, the Simon Commission reported that such relations were entirely in the hands of the Crown. For international purposes, therefore, the territory of Indian States is in the same position as the territory of British India, and their subjects are in the same position as British subjects. An Indian State cannot hold diplomatic or other official intercourse with any foreign power.³

OFFICE OF THE HIGH COMMISSIONER FOR INDIA IN THE UNITED KINGDOM

Section 35 of the Government of India Act, 1919, gave power to His Majesty to make by Order in Council provision for the appointment of a High Commissioner for India in the United Kingdom, and such an Order in Council was duly issued on the 13th August, 1920. The Order in Council authorized the Governor-General of India in Council with the approval of the Secretary of State in Council to appoint from time to time some person to be High Commissioner for India.

High Commissioners to date have been Sir William S. Meyer (1920-2), Sir Dadiba M. Dalal, C.I.E. (1922-4),

¹ Ibid., p. 22, para. 42.

² Ibid., p. 22, para. 43.

³ *Indian Statutory Commission*, vol. i, p. 87, para. 105.

and Sir Atul Chandra Chatterjee, G.C.I.E., K.C.S.I. (1925-31). The present High Commissioner is Sir Bhupendra Nath Mitra, K.C.S.I., K.C.I.E., C.B.E., who was Acting High Commissioner from 6th November to 10th December, 1924, and who succeeded to the office on 1st July, 1931.

The office of the High Commissioner was opened in two dwelling-houses in Grosvenor Gardens; later a third house, and later still, part of a fourth house were occupied. These offices were neither convenient nor dignified, and eventually Sir Atul Chatterjee suggested to the Government of India the erection of a specially designed building. In 1927 it was decided to apply for an Aldwych site from the London County Council; in 1928 building began to the designs of Sir Herbert Baker, R.A., and in 1930 India House was occupied and formally opened by His Majesty the King Emperor on the 8th July.

The India Store Department, which constitutes part of the High Commissioner's establishment, is housed in a separate river-side building at Belvedere Road, S.E. 1.

The High Commissioner is the direct representative of, and is subordinate to, the Government of India. For administrative purposes his office is under the Commerce Department of the Government of India, but he is authorized to correspond direct with any Department of the Government of India or Provincial Government on matters pertaining to it, e.g. he addresses the Department of Education, Health, and Lands on matters concerning Indian students, the Department of Industries and Labour on general matters touching stores, &c.

Organization

The chief officers under the High Commissioner are:

The Deputy High Commissioner, who co-ordinates all the activities of the High Commissioner's office, and performs all the functions of the High Commissioner if the High Commissioner is away from office.

The Indian Trade Commissioner, in charge of the Trade Department.

The Director-General, in charge of the India Store.

Department (sub-departmental heads—Director of Purchase, Director of Inspection).

The Chief Accounting Officer, in charge of the Accounts Department.

A Secretary in charge of the Education Department.

A Secretary in charge of the Public Department.

A Secretary in charge of the General Department.

- i. The primary duty of the Indian Trade Commissioner is to forward the interests of Indian producers in the markets of the West, to collect and distribute trade information, and to advise the High Commissioner on all trade questions.
- ii. The duty of the Director-General, India Store Department, is to purchase from the trade, or obtain from departments of His Majesty's Government, stores of all sorts required by the Central or Provincial Governments of India, and where necessary, to inspect and ship them.
- iii. The Chief Accounting Officer's duty is to maintain the High Commissioner's accounts, to act as paymaster for all his expenditure, to render separate accounts to the Central and Provincial Governments, to obtain necessary budget grants, &c.
- iv. The duty of the Education Secretary is to furnish Indians with information regarding educational facilities of all sorts in this country, to obtain admission for them to educational institutions, to assist them to obtain professional and technological training, to supervise State Scholars and others who may be placed under the High Commissioner's guardianship, and generally to assist Indian students.
- v. The Public Secretary's duty is to control the India House Library, and the sale of official Indian publications, to supply information regarding India, other than trade information, to the public, and to assist the High Commissioner when representing India on international or inter-Imperial conferences and bodies.
- vi. The General Secretary's duty is to arrange for the recruitment of staff for Government and public bodies in India, to supervise Government officials on study leave, to obtain facilities for such officers and other accredited persons, official and non-official, to protect the interests, and, where necessary, to repatriate distressed Indian seamen, to assist other Indian nationals so far as feasible and proper, and to perform other miscellaneous duties.

Functions

The Order in Council lays down that the High Commissioner shall (*a*) act as agent of the Governor-General in Council in the United Kingdom; (*b*) act similarly on behalf of the Provincial Governments in India, subject to the orders of the Governor-General, and (*c*) conduct any business relating to the Government of India hitherto conducted in the office of the Secretary of State which may be assigned to him by the Secretary of State. The scope of the High Commissioner's ordinary work can be gathered from the above summary of the duties performed by each of his six departments. But the accommodation of official activities was only one part of the object in erecting India House; an almost greater purpose was to provide a focus of Indian life.

The High Commissioner has taken over from the India Office such part of Indian official work as is of an agency character, and politics do not fall within his sphere. Under the existing Indian Constitution the Governor-General of India in Council is subject to the superintendence, direction, and control of His Majesty's Secretary of State for India. Consequently, communications on questions of policy as between the Home and Indian Governments are addressed to the India Office by the Government of India direct and not by the High Commissioner on the instructions of the Government of India. It follows that India's inter-Imperial and foreign relations are matters pertaining to the India Office, and that the India Office provides the Government of India's channel of communication with inter-Imperial or international bodies such as the Imperial Conference or the League of Nations.¹ The High Commissioner, however, may be, and frequently is, appointed to represent the Government of India on such conferences and bodies. A departure from the ordinary procedure was made in the case of the Indian Delegation to the Ottawa Conference which was based on India House and communicated with the Government of India through the High Commissioner.

¹ See p. 160, below.

AGENT-GENERAL FOR THE GOVERNMENT OF INDIA IN THE UNION OF SOUTH AFRICA

This office was established in 1927 as a result of a Conference at Capetown between representatives of the Union and the Indian Governments, which met to consider the whole position of Indians in the Union. The Conference attained a measure of agreement which included, among others, the following points:

1. Both Governments reaffirm their recognition of the right of South Africa to use all just and legitimate means for the maintenance of Western standards of life.
2. The Union Government recognizes that Indians in the Union, who are prepared to conform to Western standards of life, should be enabled to do so.
3. For those Indians in the Union who may desire to avail themselves of it, the Union Government will organize a scheme of assisted emigration to India and other countries where Western standards are not required. . . .
4. The Government of India recognizes its obligation to look after such emigrants on their arrival in India.
5. The two Governments have agreed to watch the working of the agreement now reached and to exchange views from time to time as to any changes that experience may suggest.
6. The Government of the Union of South Africa have requested the Government of India to appoint an Agent in the Union in order to secure continuous and effective co-operation between the two Governments.¹

The Right Hon. Srinivasa Sastri was thereafter appointed as the first Agent-General for the Government of India in the Union, and was followed in 1929 by Sir Venkata Reddi, who retired in 1932 giving place to Mr. (now Sir) Maharaj Singh. The latter has recently resigned, his resignation to take effect in January, 1935.

In accordance with clause 5, above, a further Conference between the two Governments was held early in 1932 to consider the working of the agreement and to exchange views as to any modifications that experience might suggest. At this Conference both Governments agreed that

¹ *Official Year Book of the Union of South Africa, 1931-2, pp. 830-1.*

the Capetown agreement had been a powerful influence in fostering friendly relations between them. It was recognized, moreover, that the possibilities of assisted emigration to India were now practically exhausted and, as a consequence, the possibilities of land settlement outside India were further considered. The Government of India agreed to co-operate with the Government of the Union in exploring the possibilities of a scheme for settling Indians, both from India and from South Africa, in other countries. The Agent-General exists therefore to facilitate this co-operation and to protect, as far as possible, the interests of Indians resident in the Union. His head-quarters are at Durban.

4. DIPLOMATIC REPRESENTATION

A. The Diplomatic Representation of the British Commonwealth

The normal channel of communication between the Dominion Governments and foreign governments is through the Diplomatic Service of the United Kingdom; and the Balfour Committee reported that, in cases other than those where Dominion Ministers were accredited to the Heads of foreign States, it was agreed to be very desirable that the existing diplomatic channels should continue to be used, as between Dominion Governments and foreign governments in matters of general and political concern.

While the [1930] Conference did not wish to suggest any variation in this practice, they felt that it was of great importance to secure that the machinery of diplomatic communication should be of a sufficiently elastic and flexible character. They appreciated that cases might arise in which, for reasons of urgency, one of His Majesty's Governments in the Dominions might consider it desirable to communicate direct with one of His Majesty's Ambassadors or Ministers appointed on the advice of His Majesty's Government in the United Kingdom on a matter falling within the category mentioned. In such cases they recommended that the procedure just described should be followed. It would be understood that the communication sent to the Ambassador or Minister would indicate

to him that, if practicable, he should, before taking any action, await a telegram from His Majesty's Government in the United Kingdom, with whom the Dominion Government concerned would simultaneously communicate.

As regards subjects not falling within the category of matters of general and political concern, the Conference felt that it would be to the general advantage if communications passed direct between His Majesty's Government in the Dominions and the Ambassador or Minister concerned. It was thought that it would be of practical convenience to define, as far as possible, the matters falling within this arrangement; the definition would include such matters as, for example, the negotiation of commercial arrangements affecting exclusively a Dominion Government and a foreign Power, complimentary messages, invitations to non-political conferences, and requests for information of a technical or scientific character. If it appeared hereafter that the definition were not sufficiently exhaustive it could of course be added to at any time. . . .

The Conference were informed that His Majesty's Government in the United Kingdom were willing to issue the necessary instructions to the Ambassadors and Ministers concerned to proceed in accordance with the above recommendations.¹

The effect of this arrangement is that when representations to a foreign government are made by a British Minister or Ambassador on behalf of any part of the Commonwealth, they have the prestige of the whole Commonwealth behind them.

B. Separate Representation of the Dominions

As early as 1892 leaders of both political parties in Canada were convinced that separate diplomatic representation for Canada at Washington was desirable, and it was their feeling that this representation should be, in some degree at least, independent of, though co-operating with, British diplomacy.² About 1898 Sir Wilfred Laurier, then Prime Minister of Canada, 'intended to appoint a gentleman of very marked ability and of high standing as Commissioner at Washington, having the same status as (the) Canadian Commissioner in London', but for some

.¹ *Cmd. 3717*, section (i), pp. 29-30.

² *House of Commons Debates (Canada)*, 1892, cols. 1950-79, 2463-82.

reason the appointment was not made.¹ In 1917 Sir Robert Borden took the matter up again with the Government of the United Kingdom, 'but on account of war conditions and by reason of the enormous pressure of business affairs between the two countries, the conclusion was then reached that the purpose for the time being during the War would be better served by the appointment of a Canadian War Mission'.² The War Mission was appointed, but when it had almost completed its work conversations on the subject of permanent Canadian representation at Washington were once again entered upon between Sir Robert Borden, Mr. Lloyd George, Mr. Balfour, and representatives of other Dominions, notably the Prime Minister of Australia, and, on 10th May, 1920, the following announcement was made simultaneously in the Parliaments of the United Kingdom and Canada by Mr. Bonar Law and Sir George Foster:³

As a result of recent discussions an arrangement has been concluded between the British and Canadian Governments to provide more complete representation at Washington of Canadian interests than has hitherto existed. Accordingly, it has been agreed that His Majesty, on advice of his Canadian Ministers, shall appoint a Minister Plenipotentiary who will have charge of Canadian affairs and will at all times be the ordinary channel of communication with the United States Government in matters of purely Canadian concern, acting upon instructions from and reporting direct to the Canadian Government. In the absence of the Ambassador the Canadian Minister will take charge of the whole Embassy and of the representation of Imperial as well as Canadian interests. He will be accredited by His Majesty to the President with the necessary powers for the purpose. This new arrangement will not denote any departure either on the part of the British Government or of the Canadian Government from the principle of the diplomatic unity of the British Empire.

The need for this important step has been fully realized by both Governments for some time. For a good many years there has been direct communication between Washington and Ottawa, but the

¹ *House of Commons Debates* (Canada), 1919, pp. 10-74, 2076 (Mr. Lemieux).

² *Ibid.*, 1920, pp. 2451-3 (Sir R. Borden). ³ *Ibid.*, 1920, p. 2178.

constantly increasing importance of Canadian interests in the United States has made it apparent that Canada should be represented there in some distinctive manner, for this would doubtless tend to expedite negotiations, and naturally first-hand acquaintance with Canadian conditions would promote good understanding. In view of the peculiarly close relations that have always existed between the people of Canada and those of the United States, it is confidently expected as well that this new step will have the very desirable result of maintaining and strengthening the friendly relations and co-operation between the British Empire and the United States.

In view of the fact that the appointment of an additional representative of His Majesty in Washington, especially charged with the conduct of the affairs of a distinct portion of the Empire, was a new departure in diplomatic practice, it was deemed desirable, both by the British and Canadian Governments, that the matter should be informally discussed with the Department of State of the United States. After the understanding was arrived at that such a Minister should be appointed, but before the form of the announcement was settled, a member of the Canadian Government and the Chargé d'Affaires of the British Embassy at Washington took the matter up with the Acting Secretary of State of the United States; after a full explanation of the proposal, they were assured by the Acting Secretary of State that a Canadian Minister to Washington would be most cordially welcomed.

It is noteworthy that this understanding which had been arrived at between the Governments of the United Kingdom and Canada contemplated that the Canadian Minister at Washington should assume the position of the British Ambassador in the latter's absence. Sir Robert Borden's speech in the Canadian House of Commons also made it clear that the offices of the Minister should be located in the British Embassy.¹ However, when the appointment of Mr. Vincent Massey as the first Canadian Minister was about to be made in 1926, Mr. W. L. Mackenzie King, then Prime Minister of Canada, in writing to Sir

¹ *House of Commons Debates (Canada)*, 17th May, 1920, pp. 2451-3
• (Sir R. Borden).

Austen Chamberlain, Secretary of State for Foreign Affairs, stated:

It is not in contemplation to renew the provision suggested in 1920 whereby the Canadian Minister would be a member of the British Embassy and would, in the absence of the Ambassador, have charge of the Embassy and of the representation of Imperial as well as Canadian interests. I should be greatly obliged if you could have steps taken to ascertain as early as may be convenient whether the appointment of Mr. Massey in this capacity would be acceptable to the Government of the United States.¹

Although the appointment of a Canadian Minister did not take place until 1926, the principle was established, and the Irish Free State first gave effect to it by appointing Professor T. A. Smiddy to Washington in 1924.

In making the appointment of Professor Smiddy, emphasis was laid on two points: first, that the arrangements denoted no departure from the principle of the diplomatic unity of the Empire; and second, that the Minister's credentials gave him authority to take charge of all affairs relating to the Irish Free State.

The Irish Minister would be at all times in the closest touch with His Majesty's Ambassador, and any question which may arise as to whether a matter comes within the category of those handled by the Irish Minister or not would be settled by consultation between them.²

In matters falling within his sphere the Irish Minister would not be subject to the control of His Majesty's Ambassador, nor would His Majesty's Ambassador be responsible for the Irish Minister's action.

There has in practice been no difficulty in determining whether or not a matter comes within the category of those handled by a Dominion Minister. The decision is made when necessary by consultation between the heads of the two missions, though ordinarily the secretariats can allocate the subjects. In the majority of cases even this does not happen because the business arises in the mission where it belongs. A Dominion Minister is not authorized to take charge of matters which concern other Members of the

¹ Unpublished dispatch.

² *Cmd. 2202*, p. 2.

Commonwealth even though, in particular instances, their interest may be involved.¹

The Balfour Committee 'felt that most fruitful results could be anticipated from the co-operation of His Majesty's representatives in the United States of America, already initiated, and now further to be developed'. The Imperial Conference of 1930 felt that 'such appointments furnish a most valuable opportunity for the interchange of information, not only between the representatives themselves but also between the respective Governments'. This co-operation envisaged by the Balfour Committee has in fact been carried out. Occasionally the Dominion representatives in Washington hold informal conversations on matters of common concern which do not, however, interest the British Ambassador, but such cases are of infrequent occurrence.

In certain rare cases the co-operation between the Canadian Minister and the British Ambassador has assumed the form of joint representation to the Department of State, though the ordinary form of co-operation is mutual consultation. To facilitate this consultation notes and dispatches of mutual interest are automatically exchanged between the missions, and the Ambassador and the Minister give each other free access to their respective files. A notable example of co-operation between the British Ambassador and the Canadian Minister was the conduct of the *I'm Alone* case in 1929, this co-operation taking place by means of informal conversations. The matter was handled, however, and settled, as far as the actual diplomatic negotiations were concerned, by the Canadian Legation without participation by the British Embassy, although the incident involved a most important treaty between Great Britain and the United States.²

¹ It is to be noted, too, that the British consuls are in no way under the control of such Dominion Ministers; and the citizens of the Dominions enjoy their aid and protection in capitals where Dominion Ministers are stationed as well as in capitals where they are not.

² Convention between the United Kingdom and the United States of America respecting the regulation of the Liquor Traffic, 1924.

Cost of Separate Representation

The cost of separate representation is a large consideration, and the attitude towards it was summed up by General Smuts speaking in the House of Assembly of the Union of South Africa on 10th April, 1930. 'Nothing could be worse', he said, 'than to send men to foreign capitals to live in a small and mean way. The comparison ... with other countries would be so odious and so against the interests of South Africa that it would be far better to send no representatives at all.'¹

List of Dominion Representatives Abroad

The following is a list of Dominion diplomatic representatives in foreign capitals in April, 1934:

CANADA

Envoy Extraordinary and Minister Plenipotentiary to the United States (Washington).

Envoy Extraordinary and Minister Plenipotentiary to France (Paris).

Envoy Extraordinary and Minister Plenipotentiary to Japan (Tokyo).

Canadian Advisory Officer, League of Nations, Geneva.

SOUTH AFRICA²

Envoy Extraordinary and Minister Plenipotentiary to the Netherlands (The Hague).

Envoy Extraordinary and Minister Plenipotentiary to Italy (Rome).

Envoy Extraordinary and Minister Plenipotentiary to the United States (Washington).

Accredited Representative to the League of Nations, Geneva.

Consul-General at Lourenço Marques.

¹ *Journal of Parliaments of the Empire*, vol. xi, No. 4, Oct. 1930, p. 1034.

² The present Minister to The Hague will shortly be accredited also to Brussels. It is the intention of the Union in the near future to appoint a Minister to Paris, to be accredited also to Lisbon; and to Berlin, to be accredited also to Stockholm.

IRISH FREE STATE

Envoy Extraordinary and Minister Plenipotentiary to the United States (Washington).

Envoy Extraordinary and Minister Plenipotentiary to the Holy See.

Envoy Extraordinary and Minister Plenipotentiary to France and to Belgium (Paris).

Envoy Extraordinary and Minister Plenipotentiary to Germany (Berlin).

Permanent Delegate accredited to the League of Nations, Geneva.

C. Representation of Foreign Countries

The States concerned have reciprocated, so that there are the following Ministers accredited to the Dominions:

ITALY

Envoy Extraordinary and Minister Plenipotentiary to the Union of South Africa (Capetown).

NETHERLANDS

Envoy Extraordinary and Minister Plenipotentiary to the Union of South Africa (Pretoria).

HOLY SEE

Nuncio Apostolic to the Irish Free State.

JAPAN

Envoy Extraordinary and Minister Plenipotentiary to the Dominion of Canada (Ottawa).

UNITED STATES OF AMERICA

Envoy Extraordinary and Minister Plenipotentiary to the Dominion of Canada (Ottawa).

Envoy Extraordinary and Minister Plenipotentiary to the Union of South Africa (Pretoria).

Envoy Extraordinary and Minister Plenipotentiary to the Irish Free State (Dublin).

FRANCE

Envoy Extraordinary and Minister Plenipotentiary to the Dominion of Canada (Ottawa).

Envoy Extraordinary and Minister Plenipotentiary to the Irish Free State (Dublin).

GERMANY

Envoy Extraordinary and Minister Plenipotentiary to the Irish Free State (Dublin).

Consul-General and Chargé d'Affaires in the Union of South Africa (Pretoria).

5. REPRESENTATION AT GENEVA

THE ASSEMBLY OF THE LEAGUE OF NATIONS

Each of the Dominions and India has its separate delegation to the Assembly of the League of Nations at Geneva, and the United Kingdom is represented by the British Empire delegation. Each delegation has a maximum of three members, the personnel of which varies from time to time. Formerly, though not in recent years, certain Dominions occasionally nominated persons from the United Kingdom to represent them.

THE COUNCIL

The British Empire has a permanent seat on the Council of the League, and its representative, who since the end of 1924 has almost invariably been the Secretary of State for Foreign Affairs, is, in practice, the representative of the United Kingdom and those portions of the Empire which are not separate Members of the League. It is also incumbent upon him, although he is not the representative of the Dominions, to bear their interests in mind and to consult fully with them before agreeing to any course of action affecting those interests.

The Dominions are entitled to temporary seats on the Council. Canada was the first to obtain a seat, holding it from 1927 to 1930. She was generally represented by Senator Dandurand, though in 1928 she was represented by the then Prime Minister, the Right Hon. W. L. Mackenzie King. In 1930, the Irish Free State was elected, and was generally represented either by the Minister for External Affairs, or by the Permanent Delegate. Upon

the retirement of the Irish Free State in 1933 the Commonwealth of Australia was elected, and is represented by the High Commissioner.

If a Dominion is not represented on the Council, it shares the right of other Members of the League to send a representative to take part in meetings of the Council at which matters specially affecting its interests are under consideration.

PERMANENT DOMINION REPRESENTATIVES AT GENEVA

Three of the Dominion Governments have permanent representatives in Geneva. These are:

CANADA. Canadian Advisory Officer, League of Nations (office established 1924).

SOUTH AFRICA. Accredited Representative to the League of Nations (office established 1929).

IRISH FREE STATE. Permanent Delegate accredited to the League of Nations (office established 1923).

These appointments have been made in order to minimize the disadvantages of distance from Geneva. Although all the Dominions are closely concerned in League activities, Canada, South Africa, and the Irish Free State have been particularly involved. Canada has been occupied not only as an ordinary Member of the League and as a Member of Council (1927-30), but also as a Member of the Governing Body of the International Labour Office. The Irish Free State has been closely interested both for general political reasons and as a Member for the Council for 1930-3. South Africa is mainly concerned from her position as Mandatory Power for South-West Africa.

The duties of these representatives are illustrated in the terms of appointment of the Canadian officer, which are 'to establish and maintain as close relations as possible with the Secretariat of the League of Nations and the International Labour Office', to 'communicate with the Government of Canada as to all matters arising and requiring its attention', and 'to act in all such matters in an advisory capacity to the Government of Canada and to delegates

from the Government of Canada to conferences arising out of the organizations before-named'.¹

6. PRINCIPLES OF IMPERIAL DEFENCE

The question of Defence has been discussed at each of the Colonial and Imperial Conferences, and it is at these Conferences that the basic principles of Imperial Defence have been formulated and modified as circumstances demand.

The Prime Minister of Great Britain in his statement on defence made to the Imperial Conference of 1926² referred to the Resolutions adopted at the Imperial Conference of 1923 as being 'the very bedrock of our defence policy'. They may be stated as follows:

1. The Conference affirms that it is necessary to provide for the adequate defence of the territories and trade of the several countries composing the British Empire.

2. In this connexion the Conference expressly recognizes that it is for the Parliaments of the several parts of the Empire, upon the recommendations of their respective Governments, to decide the nature and extent of any action which should be taken by them.

3. Subject to this provision, the Conference suggests the following as guiding principles:

- a. The primary responsibility of each portion of the Empire represented at the Conference for its own local defence.
- b. Adequate provision for safeguarding the maritime communications of the several parts of the Empire and the routes and waterways along and through which their armed forces and trade pass.
- c. The provision of Naval bases and facilities for repair and fuel so as to ensure the mobility of the fleets.
- d. The desirability of the maintenance of a minimum standard of Naval Strength, namely, equality with the Naval Strength of any foreign Power, in accordance with the provisions of the Washington Treaty on Limitation of Armaments as approved by Great Britain, all the Self-governing Dominions and India.
- e. The desirability of the development of the Air Forces in the several countries of the Empire upon such lines as will make

¹ *Canada Year Book*, 1932, p. 88.

² *Cmd. 2769*, p. 159.*

it possible, by means of the adoption, as far as practicable, of a common system of organization and training, and the use of uniform manuals, patterns of arms, equipment, and stores (with the exception of the type of aircraft), for each part of the Empire as it may determine to co-operate with other parts with the least possible delay and the greatest efficiency.

4. In the application of these principles to the several parts of the Empire concerned the Conference takes note of:

- a. The deep interest of the Commonwealth of Australia, the Dominion of New Zealand, and India, in the provision of a Naval Base at Singapore, as essential for ensuring the mobility necessary to provide for the security of the territories and trade of the Empire in Eastern Waters.
- b. The necessity for the maintenance of safe passage along the great route to the East through the Mediterranean and the Red Sea.
- c. The necessity for the maintenance by Great Britain of a Home Defence Air Force of sufficient strength to give adequate protection against air attack by the strongest air force within striking distance of her shores.

5. The Conference, while deeply concerned for the paramount importance of providing for the safety and integrity of all parts of the Empire, earnestly desires, so far as is consistent with this consideration, the further limitation of armaments, and trusts that no opportunity may be lost to promote this object.¹

These Resolutions make reference to the desirability of developing uniformity of organization, training, &c., only in the Air Forces, but it is now a generally accepted principle that such uniformity is desirable in every branch of the forces of the Commonwealth.

The Imperial Conference can only concern itself with the broad outlines of policy in defence matters; the business of working out the details is undertaken by the Overseas Defence Sub-Committee (O.D.C.) of the Committee of Imperial Defence. This Committee may further make recommendations to the Governments for the modification, from time to time, of the principles adopted by the Imperial Conference.

¹ *Cmd. 1987*, pp. 16-17.

7. DEFENCE POLICY AND ARRANGEMENTS OF INDIVIDUAL DOMINIONS

A brief account is given below of the principles which govern the defence policy of each Dominion and the arrangements through which that policy is carried out.

CANADA

A fundamental assumption in the present defence policy of Canada is that war with the United States is a contingency so remote that special preparation to that end is deemed to be unnecessary.

Another assumption is that on account of geographical considerations Canada will not be requested by the Council of the League to send armed forces to Europe to assist in the application of sanctions against a Covenant-breaking State. However, should the United Kingdom become involved in a European war, it is obvious that a section of public opinion in Canada would demand intervention. Thus the employment of Canadian forces in Europe is a possibility that cannot be ignored.

Defence Policy and Organization

The main principles of Canadian defence policy were stated at the Imperial Conference of 1926 by Mr. Mackenzie King,¹ then Prime Minister of Canada. These principles have since been discussed in speeches given by the Chief of the General Staff² and by the Chief of the Naval Staff.³

¹ Imperial Conference, 1926: *Appendices to Proceedings, Cmd. 2769*, pp. 168–70.

² ‘Canada’s Land and Air Defence Forces’, an address by Major-General A. G. L. McNaughton, C.M.G., D.S.O., Chief of the General Staff, Canada, to the Empire Club of Canada, in Toronto on 2nd May, 1929. Empire Club of Canada: *Speeches delivered to the Members during the year 1929* (Toronto).

³ ‘Canada and Imperial Defence’, an address by Commodore Walter Hose, C.B.E., R.C.N., Chief of the Naval Staff, Canada, delivered under the auspices of the British Empire League at the British Empire Club, London, on 14th Feb., 1929. *British Empire Review*, vol. xxv, No. 1 (March 1929), p. 17.

a. Land Forces.

A militia organization for land defence follows naturally from Canada's favourable position. She does not need a standing army to defend her against a sudden attack from the United States, nor to go at a moment's notice to take military action to fulfil her obligations under the Covenant of the League of Nations. Nor does she need it to repel a sudden attack from the east or the west, for no foreign expeditionary force of dangerous strength could be transported to Canadian shores without preliminary arrangements of such magnitude that they could not be kept secret. As Canada may then expect some considerable period of notice of any major danger it seems obvious that she does not need a large force immediately ready but the nucleus of a force around which the entire defence resources of the nation could be developed. Thus Canada for her war organization relies upon her citizen force—the Non-Permanent Active Militia—supplemented to a certain extent from the permanent force as this personnel can be replaced in their instructional duties. The Non-Permanent Active Militia as at present organized in Canada had, during the year ending 31st March, 1932, a peace establishment of 126,653 all ranks; its active strength was 51,287, of which only 36,189 had been trained that year.¹ In general, this training consists of twelve days either at camp or at local headquarters devoted to drill and elementary tactical exercises. In addition to this training which is paid for, a very large number of the militia turn out for drills and courses of instruction without expense to the public.

Mr. Mackenzie King at the Imperial Conference of 1926, in outlining the main principles of Canadian policy on military matters, said, 'the general policy of Canada has been the organization and training of forces on lines similar to those maintained in Great Britain, with necessary changes required by local conditions. . . . Among the steps taken to ensure that the Canadian forces are trained as closely as possible on the same lines as the British may be mentioned the interchange of officers, the attendance of officers at numerous courses in England, including the Staff College, and exchange visits between staff officers.'²

A permanent force officer in Canada is required to-day to pass the same examination, set and corrected by the same authorities, as an officer of corresponding rank in the British Army, and also to obtain certain additional qualifications which are necessary to meet

¹ Department of National Defence: *Report for the year ending March 31st, 1932.*

² *Cmd. 2769*, pp. 168-9.

special Canadian conditions. The purpose of these common examinations is to set up a common standard of education so that an officer of a definite rank in the forces of one part of the Commonwealth could be employed, either in time of peace or in war, in any appointment of similar rank in the forces of any other portion of the Commonwealth.

b. Sea Forces.

The primary consideration of Canada in framing its policy of naval defence is the protection of the focal points in the vicinity of Canadian waters at which Canadian shipping becomes congested. It is well recognized that operations against Canadian trade in these limited areas would have a vital effect on Canadian industry. At the same time Canada is peculiarly well situated geographically and strategically since these vulnerable focal points lie six thousand miles on one side and three thousand miles on the other from any possible overseas adversary. In any maritime conflict menacing the Commonwealth it is difficult to conceive of any major forces of possible enemies being detailed to attack Canadian trade at these vulnerable points. Minor forces, however, might well be available for such an important objective if no defences were maintained to oppose them. Therefore, as Mr. Mackenzie King has said, 'the policy on which the naval activities of the Dominion are based at present is one of developing the local defence of the waters in the vicinity of Canadian coasts and the approaches to our ports'.

Canadian defence circles do not regard this concentration on local defence to the exclusion of a share in the general naval defence of the Commonwealth as a selfish policy. They feel that Canada has contributed a great deal to the strength of the Commonwealth in other ways, notably by the construction of transcontinental railroads.

Mr. Mackenzie King in his speech at the Imperial Conference of 1926 touched on some further aspects of Canadian policy on naval defence. He said: 'It is considered that any Naval programme should, as far as possible, be one which will admit of the personnel being for the most part, if not entirely, Canadian. There is also in effect a system of co-operation in staff work and an arrangement of periodical service with the Royal Navy by officers and men of the Royal Canadian Navy, in order that they may be trained to carry out their duties in all respects on similar lines. In conformity with the above policy it may be stated that, in the last five and a half years, the personnel of the permanent Canadian Navy has been

transformed from 450 officers and men borrowed or specially engaged from Great Britain, and 50 Canadians, to 40 borrowed ranks and ratings and 460 Canadians.¹

c. Air Forces.

The policy of Canada in respect of her air forces has been based on the belief that an air force is to-day an absolutely essential arm of a defence organization and that it is therefore necessary for Canada to have a small staff skilled in the art of design and operation of aircraft. It is contended that if this staff were confined to purely military work there would not be sufficient scope for its activities to permit the retention of able and enthusiastic men; that, if the civil and military aviation activities of the Dominion Government were separated there would be a needless and expensive duplication of organization and that, because of the climate, most of the civil operations with the exception of air transport would have to be done in the summer, while the experience of 1917-18 showed that military air training could be carried out in the winter. These considerations accounted for the decision of the Government in 1923 to place all its aviation activities under the Department of National Defence. At present and apart from such matters as the technical air training of pilots, the work of the Royal Canadian Air Force in summer is almost exclusively devoted to civil operations— aeroplane photography in connexion with the preparation of maps by the Department of the Interior and by the geographical section of the Department of Defence; fishery protection; a study of the spread of pine blister and wheat rust, and many other activities which are of constructive benefit to the community.

As Mr. Mackenzie King pointed out in 1926, such duties constitute a most valuable practical training for the personnel employed on them. 'Civil aviation', he said, 'has a direct relation to the creation of a military air force, and serves to create a reserve thereto. By the air force regulations an individual who obtains a pilot's certificate automatically becomes a reservist.'²

Administration

DEPARTMENT OF NATIONAL DEFENCE

Prior to 1922 there were three government departments concerned with national defence; but the National Defence Act, 1922, created a Department of National Defence,

¹ Ibid., p. 169.

² Ibid., p. 170.

consolidating these departments. This Department is under the control of a Minister and Deputy Minister of National Defence.

The Department has the responsibility of administering:

The Militia, active and reserve.

The Royal Canadian Navy.

Aeronautics, both civil and military.

THE DEFENCE COUNCIL

This body, constituted by Order in Council in 1923 to advise the Minister, consists of:

The Minister (President),

Deputy Minister (Vice-President),

Chief of the General Staff,

Chief of the Naval Staff,

with the Adjutant-General, the Quartermaster-General, and the Director, Royal Canadian Air Force, as associate members.

National Defence Expenditure¹

The total expenditure on Defence in 1931-2 was \$17,700,000; in 1932-3 it was \$13,349,228; and the estimated expenditure for 1933-4 is \$13,600,000.

Control of Canadian Forces in an Empire War

As a result of war experience and in view of the constitutional development of the Dominions, it may be assumed that, in any future war in which Canadian forces take part with those of Great Britain and the other Dominions, the following principles will apply:

- i. That Canadian personnel will be reserved for Canadian units and services, but that individuals may be loaned to the forces of other portions of the Commonwealth if required.
- ii. That Canadian forces will be, as far as practicable, administratively self-contained with a direct channel of responsibility to the Canadian Government.
- iii. That tactically the Canadian Commander will probably be under the orders of the Commander-in-Chief, but he will

¹ Department of National Defence Reports, 1932 and 1933.

not be free from responsibility to the Canadian Government for the safety of his command.

- iv. That initially and in order to facilitate transportation and deployment the British war establishments will be accepted without change, but that Canada will hold herself free to modify these establishments in the light of experience and of her own special conditions.

AUSTRALIA

Defence Policy

The principles of the Commonwealth policy were reviewed by Mr. Bruce at the Imperial Conference of 1926 when he made a long statement, some points of which can be summarized as follows:

1. Australia accepts the principle that the primary responsibility of each Dominion is to provide for its own local defence;
2. is in agreement with the maintenance of the one-power standard, and the provision of naval bases throughout the world;
3. recognizes the vital necessity of preserving the Suez-Red Sea communication;
4. agrees that the preservation of the Empire trade routes is a matter of common concern to all parts of the Empire, and that equality of status carries with it some responsibility to share the common burden of defence; and, although Great Britain has much greater responsibility than any one, something should be done to ensure that the burden is a little more equally divided, as a set-off against the great advantages the Dominions have received in recent years from their connexion with the Empire;
5. does all it can to achieve uniformity by making provision for training abroad with naval and military units of the Imperial Forces in India and the United Kingdom;
6. and that, in view of these considerations, a scheme for the progressive development of all three Services was launched in 1924.¹

¹ *Cmd. 2769*, pp. 170-9.

Defence Organization

The guiding principle is uniformity in every respect with the fighting Services of Great Britain. The Commonwealth Government maintains three Services:

Army. The principle of universal compulsory training of a Citizen Army was abandoned in 1929, when the constitution of forces on a voluntary basis was adopted. Permanent troops are maintained only in such numbers as are necessary to administer and instruct the Militia Forces.

Navy. Since 1913 the Commonwealth has undertaken the building and maintenance of its own vessels. The policy of the Commonwealth is to be self-dependent; and in pursuance of this policy it maintains the Royal Australian Navy.

Air Force. The Royal Australian Air Force is entrusted with the air defence of Australia, the training of personnel for co-operation with military and naval forces, and the refresher training of pilots engaged in civil aviation.

Administration

The Services are administered by:

THE DEPARTMENT OF DEFENCE, consisting of

The Minister for Defence.

Secretary, with Assistants.

COUNCIL OF DEFENCE

This is under the Presidency of the Prime Minister and consists of representatives of all three Services. It deals with policy and ensures its continuity, and co-ordinates the requirements of sea, air, and land.

THE DEFENCE COMMITTEE, consisting of

Chief of the General Staff (Chairman).

Chief of the Naval Staff.

Chief of the Air Staff.

Finance Secretary of the Department of Defence.

Secretary.

BOARDS

Each Service has its own Board, under the Presidency of the Minister for Defence. These Boards have

responsibility for the control and administration of the Forces.

Expenditure on National Defence¹

The expenditure for 1931-2 was £3,184,836; for 1932-3 it was £3,572,688; and the estimated expenditure for 1933-4 is £5,116,005, the principal additional expenditure being a vote of £438,000 for aircraft.

NEW ZEALAND

Defence Policy

Mr. Coates in his statement on defence to the Imperial Conference of 1926 emphasized the scattered nature of the Imperial possessions and stressed the absolute dependence of New Zealand upon its sea-borne trade. Consequently, the Dominion is opposed to any excessive reduction of naval armaments and readily agreed to contribute £1,000,000 by annual instalments towards the cost of the Singapore Base.

New Zealand accepts the principle laid down by the Imperial Conference of 1923 that each Dominion is primarily responsible for its own local defence. Accordingly it is striving to develop along progressive lines its own New Zealand Division of the Royal Navy,² and continues to raise and organize its own military forces. Speaking on the military policy of the Dominion, Mr. Coates, in his speech referred to above, said:

So far as military policy is concerned, it is our intention to proceed on the present lines, that is, in full agreement with the proposals of the Committee of Imperial Defence as regards homogeneity of organization and material, making use of the training establishments in this country and in India—and, in fact, in any

¹ These figures exclude figures for war services. Of the estimated expenditure for 1933-4, £57,816 will come from funds unexpended at the close of the previous financial year and £376,250 will come from an existing Trust Fund, leaving the balance of £4,681,939 to be provided out of revenue. The above figures are from *Official Year Book of the Commonwealth of Australia* (No. 26), 1933, and the *Budget*, 1933, 1934.

² Established by the Naval Defence Act, 1920.

other Dominion with which we can co-operate—and frequent correspondence with the War Office, all tending towards closer co-operation.¹

The National Expenditure Commission of 1932, in reporting on the 'Defence' vote, pointed out that New Zealand's outlay on land and air defence was relatively low and recommended that

the Dominion should review the question of its defences as soon as financial considerations would permit with a view to . . . taking an adequate and proportionate share in the burden of Empire defence. The Government has accordingly resolved upon measures which will eventually have the effect of substantially strengthening the defences of the Dominion.²

Defence Organization

The New Zealand Government maintains three services:

a. *New Zealand Division of the Royal Navy.*

The naval commitments entered into by the New Zealand Government at the Imperial Conferences of 1923, 1926, and 1930 are roughly as follows:

1. To maintain two cruisers lent (by the Admiralty), and
2. to be entirely responsible for local defence, i.e. minesweeping, anti-submarine patrol, coast watching, &c.

In order to fulfil these commitments a progressive programme of expenditure on stores, training, &c. (including the purchase of a second minesweeping vessel necessary for carrying out item (2) has been laid down. Owing, however, to the necessity for rigid economy the Naval Board has accepted a postponement of the progressive development which should have taken place in accordance with approved policy, and which would have involved an annual expenditure of approximately £565,000. Instead, for the past three years the *status quo* has merely been maintained and the expenditure has been in the neighbourhood of £420,000 per annum, which is the minimum sum required to maintain:

- i. two cruisers in an efficient state,
- ii. base and repair facilities at Auckland,

¹ Imperial Conference, 1926: *Appendices to Proceedings, Cmd. 2769*, p. 185.

² *Budget, 1933.* The Government recently announced its intention of strengthening the artillery and air force services of the Dominion.

- iii. facilities for training recruits, and
- iv. the existing Reserve organization.

No provision for development in accordance with approved policy is at present being made, and in consequence New Zealand is not yet in a position to undertake her own local Naval Defence. The New Zealand Division is at the disposal of the United Kingdom in time of war, and all its officers are lent from the Royal Navy.

b. Military Forces.

The New Zealand Military Forces are raised, maintained, and organized under the Defence Act, 1909, as amended by the Defence Amendments Acts of 1910, 1912, 1915, and 1931. They are divided into the Permanent Forces, the Territorial Force, and the New Zealand Air Force. The Permanent Forces correspond to the Regular Army of Great Britain and provide commanders and staffs (at both Head-quarters and in Commands), adjutants and instructional staff for the Territorial Force and the Air Force, nucleus garrisons for the fixed defences and aerodromes, and maintenance of administrative staffs at ordnance depots.

The Defence Act, 1909, provides for compulsory service in peace time from fourteen years to eighteen years in the Cadets, and from eighteen years to twenty-five years in the Territorial Force. Since 1st October, 1930, however, the compulsory provisions of the Act have not been enforced; but, if the Government so directed, they could without legislation again be brought into operation. In July, 1931, the Forces were reorganized and service in the Territorial Force and Cadets has since been voluntary. The Act of 1909 also established a liability for all male inhabitants between the ages of seventeen and fifty-five (with certain specified exceptions) who have resided in New Zealand for six months to serve in the Militia, but, as the Militia is not embodied in times of peace, no training therein is carried out.

New Zealand is divided into three Commands: (*a*) the Northern Command, with head-quarters at Auckland; (*b*) the Central Command, with head-quarters at Wellington; and (*c*) the Southern Command, with head-quarters at Christchurch. Each Command is controlled by an officer of the Permanent Forces holding the rank of Colonel, who is responsible to the General Officer Commanding.

During a national emergency the Territorial Force is liable to service in any part of New Zealand, but cannot be compelled to serve outside the Dominion, though individuals could volunteer to do so, and their services might then be accepted on the approval of

the Governor-General, as was done on the outbreak of the Great War. The Permanent Forces, on the other hand, are liable for service in New Zealand or overseas if called upon.

c. Air Force.

The New Zealand Air Forces are raised and maintained as an integral part of the Military Forces under the Defence Acts. They are divided into the New Zealand Permanent Air Force and the New Zealand Air Force (Territorial). The New Zealand Permanent Air Force is a unit of the Permanent Military Forces and is subject to the same terms of service.

Administration

The Minister of Defence controls and administers the three fighting services through the medium of the Department of Defence which is divided for the purpose into the Naval Board, and the General Head-quarters, New Zealand Military Forces.

The Naval Board, constituted in March, 1921, is charged with the control of all matters relating to the Naval Forces, upon the policy directed by the Minister, and is vested with the executive command of the Naval Forces. It is composed of the Minister of Defence (President), the Commodore commanding the New Zealand station (First Naval Member), and a Captain, R.N. (Second Naval Member).

General Head-quarters, New Zealand Military Forces. The command of the Military Forces is vested in the General Officer Commanding, New Zealand Military Forces, who is responsible to the Minister of Defence. The General Officer Commanding is assisted by the following branches of General Head-quarters (which are the counterpart in New Zealand of the War Office):

The Branch of the General Staff (The Chief of the General Staff).

The Branch of the Adjutant and Quartermaster-General. Air Services (The Director of Air Services).

Artillery Services (The Director of Artillery).

Financial Services (The Under-Secretary of Defence, who is responsible to the Minister).

National Defence Expenditure

The cost¹ of the Defence Forces in New Zealand in 1930-1 was £689,500; in 1931-2, £525,600; and in 1932-3, £629,400.

SOUTH AFRICA

Defence Policy and Organization

A statement of the principles of the defence policy of the Union was made by Mr. Havenga at the Imperial Conference of 1926. He made, amongst others, the following points:²

1. *Defence Acts, 1912 and 1922.*

One of the underlying principles of the Defence Act of 1912, as amended by the 1922 Act is that the Union Defence Forces are organized for the defence of the Union in any part of South Africa, whether within or without the Union.

2. *Defence of Cape Peninsula and Simonstown Naval Base.*

Up to 1921 the defence of the Cape Peninsula, including that of the Simonstown Naval Base, was the responsibility of the Imperial Government, and the British troops stationed there and at other stations in the Union were available for use in the case of any internal war emergency. After the outbreak of the Great War, the Union Government undertook the whole responsibility for the safety of South Africa, including the Cape Peninsula defences. With the exception of the command staff and a few details, the garrison of British troops was temporarily, as it was then intended, withdrawn. After the War, the question of the entire or partial resumption of the defence responsibilities previously discharged by the British Government

¹ *Armaments Year Book, 1933* (League of Nations), and *New Zealand Year Book, 1934.*

² Imperial Conference, 1926: *Appendices to Proceedings, Cmd. 2769*, pp. 186-7. A summary is given of Mr. Havenga's speech, together with direct quotations upon the more important points.

was the subject of negotiation between the British and Union Governments. The decision was then reached that the Union Government should undertake the whole responsibility for the defence of the Union. The British Government handed over to the Union these defences together with a large quantity of war material and stores, as well as the landed and other property.¹ Approved coastal defences are maintained at Table Bay and at the Naval Base at Simon's Bay, and the question of making Durban an adequately defended port is under consideration. Since then a Graving Dock has been constructed at Durban capable of taking anything but the largest type of battle cruiser. This is in addition to the Royal Naval Dockyard at Simonstown.

3. Aims of Union Defence Arrangements.

The Union Defence arrangements may be described as aiming at:

- a. Maintaining a quickly mobilizable citizen army capable of dealing with any war emergency that need be contemplated within the Union's own borders or with any danger which need to-day be apprehended on any land border.
- b. Discharging the responsibilities the Union has assumed for its own coast defence and that of the Naval Base.
- c. Affording military training to as many young citizens as Union finances permit, so that as large a trained reserve as possible may be built up in readiness for any major war emergency.

4. The Union's Part in Empire Defence.

- a. The policy of the Union is to keep its military organization in harmony with that adopted by Great Britain.
- b. Under the law of the Union, no citizen can be compelled to render personal war service outside South Africa.
- c. Discussions as to 'organization', &c., are carried on with the War Office and Air Ministry officials; but on the understanding that nothing will be agreed to which would prejudice the freedom of the Union's decision as to its participation in any particular eventuality.

¹ The British Government, however, still maintains and staffs, under the British Naval Commander-in-Chief, the Naval Base at Simonstown.

- d. The most useful way in which the Union can serve the interests of the Empire is to devote available financial resources to the development of the Land and Air Forces.

5. Air Force.

This is maintained primarily for internal security, and is concentrated at Pretoria. It is organized and trained on the same lines as the Royal Air Force.

6. Coastal Defence.

The ideal aimed at is a combination of aircraft and fixed defences. But limited resources prevent the development of the Air Forces to the point at which this ideal is attained.

Administration

The Department of Defence is responsible for the establishment and maintenance of the Union's forces. It is presided over by the Minister of Defence. There are also the following officers:

Secretary for Defence and General Officer Commanding the Union Defence Forces.
 Chief of the General Staff.
 Director of Air Services.
 Quartermaster-General.
 Adjutant-General.
 Director of Medical Services.

The Minister is advised by a Council of Defence over which he presides and which has four other members.

Defence Expenditure¹

The cost of the Defence Forces of the Union in recent years has been 1931-2, £760,100; 1932-3, £736,831; and the estimated expenditure for 1933-4 is £777,342.

IRISH FREE STATE

The Department of Defence has its roots in the Dáil Ministry of Defence set up in 1919, which organized and

¹ *Armament Year Book, 1933* (League of Nations), and South Africa: 'Department of Defence: Report, 1933.'

directed the several bodies of revolutionary forces known as the Irish Republican Army which operated against the British Army. On the ratification of the Treaty, a Ministry of Defence was established within the Provisional Government which organized a military force, composed mainly of those officers and men of the Irish Republican Army who supported the Government under the title of 'Oglaigh na Eireann'. It was this body which took over the military establishments of the British troops when the latter left the territory of the Irish Free State in the spring of 1922, and later developed into the Regular Army which fought the Civil War to a successful conclusion.

In accordance with Article 46 of the Constitution the military forces of the Free State were placed on a statutory basis by the Defence Forces (Temporary Provisions) Act (No. 30 of 1923) which has since been renewed annually subject to varying amendments. It is in general drafted on the lines of the British Army Act, 1881. By the Ministers and Secretaries Act (1924) the Ministry was converted into the present Department of Defence.

Administration

MINISTRY FOR DEFENCE

The Command-in-Chief, and all executive and administrative powers, are expressly vested in the Executive Council, and are exercised through and in the name of the Ministers for Defence.¹ The assumption of active military functions by the Minister is precluded by a specific provision that he may not allocate to himself any executive military command and that he may not be a member of the force in full pay.

¹ The designation of the Minister as Commander-in-Chief is another instance of Irish insistence on the internal sovereignty of the Free State, an insistence still more forcibly exemplified in the phrasing of the military oath, which contains no reference to the Crown, but is simply a declaration 'to bear true faith and allegiance to, and against all enemies whomsoever, defend Saorstát Eireann and its Constitution by law established and render good and true service and obedience to the Oireachtas and Government of Saorstát Eireann under the Constitution'.

COUNCIL OF DEFENCE

The administrative organization of the Defence Department was amplified by the establishment, under the Ministers and Secretaries Act (1924), of a Council of Defence on the lines of the British Army Council. It consists of the Minister, who acts as Chairman (and in this capacity bears the title of Commander-in-Chief), a civil member, and three military members. The civil member is required to be a member of the Dáil, in which he acts as Parliamentary Secretary to the Minister, and is in particular responsible for the financial administration of the Army. The three military members are the Chief of Staff, the Adjutant-General, and the Quartermaster-General; they may hold office as members of the Council for not more than three years continuously.

All communications with the Imperial General Staff and Dominion Forces pass through the Department of External Affairs. Representatives of the Free State Army have attended the various Imperial Conferences since the Free State was established, and have taken part in the discussions on defence questions.

Organization

The character and administrative structure of the Irish Defence Forces are those of a professional army like the British, not of a civic force like the militias of the other Dominions. It may be employed on active service anywhere in the territory of the Free State, both against an external enemy and for the prevention or suppression of internal disorder, which would appear to preclude its employment beyond the borders of the Free State without express parliamentary sanction. It is essentially a home defence force.

The Army comprises Infantry, Artillery, an Army Air Corps, Engineers, Medical Services, Supply and Transport Services, Ordnance, and Military Police. A School of Music and a Military College are attached to it. It is

interesting to note that the head of the School of Music is a former officer of the Prussian Guards who has done magnificent work for Irish military music, whilst the officers in charge of the Military College received a special course of training in the American Army Staff College. The Army further includes a Reserve of Officers, a Reserve Force, a Volunteer Reserve, and an Officers Training Corps. The strength of the Regular Army for 1931-2 was 508 Commissioned Officers and 5,700 other ranks; that of the Reserve 256 Commissioned Officers and 9,237 other ranks. The Officers Training Corps had 450 Cadets.

Defence Expenditure¹

The expenditure on Defence for 1931-2 was approximately £1,300,000 and for 1932-3 was approximately £1,450,000.

Treaty of 1921

The Treaty of 1921 specifically provides that the Irish Free State shall afford the Imperial Forces, both in peace and war, certain harbour and other facilities at Berehaven, Queenstown, and Lough Swilly, and also that the Free State Defence Force shall bear the same proportion to the military establishments of Great Britain as the respective populations of the two countries bear to one another. Provision was made for the assumption by the Free State after the lapse of five years of a share in its coastal defence —a right which has not yet been exercised. British maintenance parties are accordingly still in occupation of the harbour defences of Berehaven, Queenstown, and Lough Swilly and British warships are stationed permanently in these ports. The provisions above referred to would make it very difficult for the Free State to remain neutral in a European war in which Great Britain was engaged.

¹ Taken from Estimates for the Irish Free State for the years 1931-2 and 1932-3.

SOUTHERN RHODESIA

Under the provisions of a Defence Act passed in 1926, the Defence Force of Southern Rhodesia consists of the Permanent and Territorial Forces and any reserve that may be established.

Permanent Force. The British South Africa Police form part of the Permanent Force, the remainder being those engaged for continuous service with the Defence Force. The Police are organized to form a mobile force should occasion demand. Provision is made in the Act for the formation of a Police Reserve, divided into a Field Reserve and a Police Reserve.

Territorial Force. The Territorial Force consists of the Territorial Active Force, Territorial Force Reserve, and the General Reserve. Permanent Staff Officers (including the Commandant) are five in number. Instructors are drawn partly from the British Army and partly from the British South Africa Police.

The Territorial Active Force comprises two battalions of the Rhodesia Regiment. The first battalion has its head-quarters at Salisbury and a company at Umtali; the second battalion has its head-quarters at Bulawayo and a company at Gwelo. These centres are where mobile columns could be formed.

The Territorial Force Reserve is divided into classes 'A' and 'B'. Class 'A' are those called up for peace training, but who are not provided for in the establishments of the Active Force. This class is an immediate reserve for the Territorial Active Force, and the members receive a thorough training in infantry weapons. On completion of service in the Territorial Active Force citizens are posted to 'A' Class Reserve, where they serve six years, and weapon training continues for that period.

Class 'B' are citizens of country districts who reside within ten miles of a rifle range. They are armed and fire an annual course of musketry. These men are considered as being available for garrison and lines of communication

duties, and would take an active part in the local defence in their own areas. In addition to providing garrisons for rallying points, these men would be employed in collecting the inhabitants in time of emergency. In view of their local knowledge, many would be fitted for duties as scouts or guides for a force operating in their neighbourhood.

The General Reserve consists of citizens between the ages of 18 and 60 who are liable to render personal service in time of war and who are not enrolled in any unit of the Defence Force.

Defence Expenditure

The cost of the Defence Forces was £264,415 for the year 1933-4, and the estimates for the year 1934-5 amount to £280,155.

INDIA

The following are responsible for defence policy and organization in India:

IN GREAT BRITAIN:

The Secretary of State. 'The Secretary of State is entrusted by statute with the general direction and control of the military administration of India and therefore responsible to Parliament for the safety of India.'¹

The Military Department of the India Office. The Secretary of State's chief adviser in military matters is the Secretary of the Military Department of the India Office who is invariably a senior officer of the Indian Army with recent Indian experience. 'The Department is in no sense an Army Head-quarters staff attached to the Secretary of State . . . but is in fact a secretariat discharging the same functions in regard to military matters as the other departments of the office undertake in respect of the civil administration.'²

IN INDIA:

The Governor-General. The Governor-General in Council exercises, subject to his responsibility to the Secretary

¹ Seton: *The India Office*, chap. xi, p. 204.

² Ibid.

of State, supreme authority over military matters. Moreover, Army policy and expenditure are excluded from the control of the Indian legislatures, though they are usually open to discussion in the Central Legislature. Matters of high military policy or principles raised by the Government of India are, however, subject to the consideration and decision of the Secretary of State.

The Commander-in-Chief. The Commander-in-Chief of the Army in India is also the Army Member of the Viceroy's Executive Council and a member of the Council of State. He is responsible for the administration of the Army, the formulation and execution of military policy, the efficient maintenance of the forces and the direction of any military operations based upon India. He is also responsible for the administration of the Royal Indian Marine and the Royal Air Force in India. He does not communicate direct with the Secretary of State, nor with the War Office except on matters of organization and equipment. He is assisted on the executive side of his administration by four Principal Staff Officers, viz. the Chief of the General Staff, the Adjutant-General, the Quartermaster-General, and the Master-General of Ordnance, and by the Air Officer Commanding in India. The Military Secretary in the India Office maintains liaison with this Head-quarters Staff in India, and with the Staff of the War Office.

The Army Department. The Army Department of the Government of India is administered by the Secretary, who is also a Secretary to the Government of India as a whole with right of access to the Viceroy and is nominated a member of the Central Legislature. He is assisted by a Deputy-Secretary, a Director of Military Lands and Cantonments, a Director of Regulations and Forms, an Under-Secretary and an Assistant-Secretary. The Department deals with all Army services proper and also with the administration of the Royal Indian Marine and the Royal Air Force in India in so far as the orders of the Government of India are concerned. It is in continuous communication with Army Head-quarters but not with

subordinate commanders or staffs. It performs functions roughly analogous to those of the civil secretariat of the Secretary of State for War in Great Britain. A Military Finance Branch under the Finance Department of the Government of India acts as liaison between the Army and Finance Departments.

The Military Council. The Military Council is an advisory body without collective responsibility whose function is to assist the Commander-in-Chief in his administrative duties. It is composed of the Commander-in-Chief as President, the Chief of the General Staff as Vice-President, the Adjutant-General, the Quartermaster-General, the Master-General of Ordnance, the Air Officer Commanding Royal Air Force, the Secretary to the Government of India in the Army Departments, and the Finance Adviser, Military Finance, representing the Finance Department of the Government of India.

Army Head-quarters. The organization of the Army Head-quarters, with the Commander-in-Chief at the head, is founded upon four Principal Staff Officers charged with the administration of (a) the General Staff Branch, (b) the Adjutant-General's Branch, (c) the Quartermaster-General's Branch, and (d) the Master-General of Ordnance Branch.

The General Staff Branch deals with matters of policy. The Adjutant-General's Branch deals with the raising, organizing, and maintenance of officers and men. The Quartermaster-General's Branch is concerned with the provision and issue of supplies. The Master-General of Ordnance Branch controls ordnance and clothing.

Organization

Military Territorial Areas. Indian territory is divided into four commands, each under a General Officer Commanding-in-Chief, and the Independent District of Burma under a Commander. The General Officer Commanding-in-Chief of each Command is responsible for the command, administration, training, and general efficiency of the troops stationed in his area and also for all internal security arrangements.

Regular British Forces in India. These forces include units of

Cavalry, Royal Artillery, Royal Engineers, Infantry, Royal Tank Corps, Royal Air Force, and Medical Services and are units of the British Service detailed for foreign service, of which the major part is, as a rule, spent in India. In the aggregate they number approximately 60,000.¹

Regular Indian Forces. These include units of Cavalry, Infantry, and Pioneers, Signal Corps, Medical Services, Royal Tank Corps, Army Service Corps, Ordnance Services, and Frontier Militia. They are far more numerous than the British Troops, numbering approximately 150,000 on the active list, and 42,500 reservists.¹

The Auxiliary Force. After the War, the question of universal training for European British subjects came up for consideration, and it was decided that in India compulsory military service would be undesirable. It was recognized, however, that some adequate auxiliary force was needed, even if only on a voluntary basis, and as a result an Act to constitute an Auxiliary Force was passed in 1920. The Force comprises all branches of the Service, Cavalry, Artillery, Engineers, Infantry, Machine Gunners, Signallers, and Medical and Veterinary Corps. Training is carried on throughout the year and men enrol for an indefinite period.

The Indian Territorial Force. 'The Territorial Force is one of the several aspects of the Indianization of the Military Services. The Force is intended to cater, amongst other things, for the military aspirations of those classes of the population to whom military service has not hitherto been a hereditary profession. It is intended, at the same time, to be a second line to, and a source of reinforcement for, the regular Indian Army. Membership of the Force for this latter reason carries with it a liability for something more than home defence. It may, in certain circumstances, involve service overseas.'² As 'the Provincial battalions are intended to form a second line to the regular Indian army . . . their liability for military service is therefore a general one (i.e. they may be employed anywhere within the limits of India and, in an emergency, beyond these limits by a special order by the Governor-General in Council').³

The Force at present consists of three main categories: Provincial battalions, urban units, and University Training Corps. The essence of its scheme of organization consists in training men by means of annual embodiment for a short period in successive years. The usual period of enrolment is six years.

¹ *India Office List, 1934*, p. 27.

² *The Army in India and its Evolution*, p. 153.

³ *India in 1928-29*, p. 292.

The Indian State Forces. These Forces, formerly designated the 'Imperial Service Troops', comprise the military forces raised and maintained by the rulers of Indian States at their own expense.

Naval Services: The East Indies Squadron. Since 1903 a squadron of the Royal Navy, known as the East Indies Squadron, has been maintained in Indian waters. In 1932 it comprised three cruisers and five sloops as well as a special service vessel and a survey ship. Towards the upkeep of these vessels the Indian Government pays an annual subsidy of £100,000.

The Royal Indian Marine. This is the sea service actually organized and controlled by the Government of India. It is of long standing and has recently been reorganized on a combatant basis. The Force at present comprises four sloops, a survey ship, a depot ship, and two patrol craft vessels.

Defence Expenditure¹

The expenditure on National defence has been, 1931–2, Rs. 558·2 millions; 1932–3, Rs. 509·1 millions.²

8. MACHINERY FOR CO-OPERATION IN DEFENCE

The machinery for co-operation in matters of defence is provided by the periodic meetings of the Imperial Conference, continuous and direct communication between certain departments of Governments, namely, the War Office, Admiralty, and Air Ministry in Great Britain, and the Defence Ministries in the Dominions, and, further, correspondence is carried on through the representatives of the Governments in each other's capitals. The War Office, for example, furnishes a certain number of its reports to such High Commissioners as ask for them; there are three special Defence Liaison Officers attached to the office of the High Commissioner for Australia, and there is a Canadian Air Liaison Officer in London with offices at the Air Ministry.³

In addition, there are the Committee of Imperial Defence and the Imperial Defence College, both of which

¹ *The Indian Year Book and Who's Who*, 1933, pp. 268–9.

² *The Times* of 11th May, 1934, gave Rs. 455 millions as the estimated expenditure for the year 1933–4. ³ See above, pp. 45 and 41.

exist to promote uniformity of defence throughout the Empire by means of:

- a. The common use through the Commonwealth of organization, equipment, establishments, and training manuals issued by the Admiralty, War Office, and Air Ministry of the United Kingdom.
- b. Direct correspondence between the staffs of the Service Departments of the United Kingdom and the staffs of the Defence Ministries of the Dominions.
- c. Periodic exchange of liaison letters between the Chiefs of Staff of the British and Dominion Services.
- d. Attendance of officers from the Dominions at Staff Colleges and the Imperial Defence College, as well as at other courses of instruction in Great Britain.
- e. The attachment of Liaison Officers from certain Dominions to Service Departments in Great Britain.¹
- f. The attachment of officers from Australia and New Zealand to British Units in India.
- g. The attachment of officers from Great Britain to units in the Dominions.

The work of the Committee of Imperial Defence and of the Imperial Defence College in promoting these ends is of sufficient importance to merit special consideration.

THE COMMITTEE OF IMPERIAL DEFENCE

Origin and Development

The Committee of Imperial Defence is the successor of the Defence Committee of the Cabinet which was established by Lord Salisbury in 1895. It was brought into existence in substantially its present form by Mr. (later Lord) Balfour in 1904. In 1907 the Colonial Conference passed the following Resolution,² which first established the right of the Colonies to be represented at meetings of the Committee:

That the Colonies be authorized to refer to the Committee of Imperial Defence, through the Secretary of State, for advice on any local questions in regard to which expert assistance is deemed desirable.

¹ See above, pp. 45 and 41.

² Colonial Conference, 1907: *Minutes of the Proceedings, Cd. 3523*, p. V.

That whenever so desired, a representative of the Colony which may wish for advice should be summoned to attend as a member of the Committee during the discussion of the question raised.

During the Great War the Committee was transformed into the War Council and later into the War Cabinet to give it the greater power of decision and rapidity of execution which were a necessity to the conduct of the War. Shortly afterwards the Imperial War Cabinet¹ was created by enlarging the War Cabinet to include representatives of the Dominions and India. But after the War the Committee of Imperial Defence regained all its essential pre-War characteristics, save for some modifications resulting from the recommendations of the Salisbury Sub-Committee,² the effect of which will be examined below.

Pre-War Composition and Constitution

In the original form of the Committee the Prime Minister was the invariable President, with absolute discretion in the selection and variation of its membership. This principle remains substantially effective to the present day, although it has been supplemented by the adoption of the recommendations of the Salisbury Sub-Committee. There was also from the first a small permanent Secretariat.

The Committee's powers are only advisory. As Mr. Balfour, speaking in the House of Commons on 2nd August, 1904, said:

I think that one of the greatest merits of the Defence Committee is that it has no executive authority at all. It has no power to give an order to the humblest soldier in His Majesty's Army or to the most powerless sloop under the control of the Admiralty.³

And speaking after an address by Sir Maurice Hankey at the University of London on 11th March, 1927, the same speaker, now Lord Balfour, said:

Nowhere and under no conditions can it modify or limit Parliamentary control or Ministerial responsibility. . . . The Committee

¹ See p. 219, below.

² *Cmd. 2029* (1924).

³ *House of Commons Debates*, 4th series, 1904, vol. cxxxix, col. 618.

is not a super-Department; it has no executive responsibilities; it gives no orders; it only gives advice.¹

Now, as in 1927 and in 1904, it still has exactly the same capacity to advise and nothing else. At the same time, as Mr. Balfour also said, it is 'practically certain that a Committee so constituted is likely to have its advice taken by the Departments' (i.e. the Home Departments).²

Post-War Modifications

In 1924 a Sub-Committee of the Committee of Imperial Defence was set up under Lord Salisbury to report on National and Imperial Defence. It reached various conclusions with regard to the co-ordinating of the Services and the working of the Committee, and amongst its recommendations were the following:³

1. That it is undesirable and impracticable to create a Ministry of Defence.
2. The existing system of the Committee of Imperial Defence is insufficient to secure full initiative and responsibility for defence as a whole.
3. The power of initiative lies not with the Committee but with the Prime Minister and the Government Departments.
4. The Prime Minister, who cannot devote much time to the work, is the only authority directly responsible for the initiation of a consistent line of policy directing the common action of the three Services.
5. The initiative of the Departments should continue, but responsibility for the wider initiative referred to in (4) above, will also rest with the Chairman of the Committee acting under the general direction of the Committee and with the assistance of the three Chiefs of Staff.
6. The Prime Minister will continue as President inviting the help of whoever he wishes; but in pursuance of a decision by the Prime Minister, the Committee places on record that the following should be members:-

¹ *Army Quarterly*, vol. xiv, No. 2 (July, 1927), p. 273.

² *House of Commons Debates* (London), 2nd August, 1904, as cited.

³ *Cmd. 2029*, pp. 16-18. The points enumerated are in some instances summaries and in others direct quotations from the Committee's recommendations.

MACHINERY OF CO-OPERATION

The Chairman (Deputy to the Prime Minister).

The Secretary of State for War.

The Secretary of State for Air.

The First Lord of the Admiralty.

The Chancellor of the Exchequer.

The Secretary of State for Foreign Affairs.

The Secretary of State for the Colonies.

The Secretary of State for India.

The Chiefs of Staff of the three Fighting Services.

The Permanent Secretary to the Treasury.

In addition to these, other British or Dominion Ministers of the Crown and other officials, or persons having special qualifications, will be summoned as members by the President according to the nature of the business.

7. The functions of the Chairman of the Committee of Imperial Defence are:
 - i. To preside over the Committee in the absence of the Prime Minister.
 - ii. To report to the Prime Minister and the Cabinet the recommendations of the Committee.
 - iii. In matters of detail to interpret the decision of the Prime Minister and the Cabinet to the Departments concerned.
 - iv. Assisted by the three Chiefs of Staff, to keep the defence situation as a whole constantly under review so as to ensure that defence preparations and plans and the expenditure thereupon are co-ordinated and framed to meet policy, that full information as to the changing naval, military, and air situation may always be available to the Committee of Imperial Defence, and that resolutions as to the requisite action thereupon may be submitted for its consideration.
8. In addition to the functions of the Chiefs of Staff as advisers on questions of sea, land, or air policy respectively, to their own Board or Council, each of the three Chiefs of Staff will have an individual and collective responsibility for advising on defence policy as a whole, the three constituting, as it were, a super-Chief of a War Staff in Commission. In carrying out this function they will meet together for the discussion of questions which affect their joint responsibilities.
9. Questions relating to co-ordination of expenditure may be entertained by the Committee of Imperial Defence when referred to it by the Cabinet. The Committee (subject to any directions by the Cabinet) will consider such questions

in the light of the general defence policy of the Government, and of the strategical plans drawn up to give effect to that policy in time of war.

Except for one or two modifications the foregoing indicates the present position with regard to the composition and constitution of the Committee. A modification with regard to the composition is that the Secretary now ordinarily invites, in addition to those listed above (see p. 109, section 6), the Lord President of the Council, the Lord Privy Seal, and the Secretary of State for Dominion Affairs.

Sub-Committee Organization

The work of the Committee of Imperial Defence divides itself into two main branches:

- i. The co-ordination of the Fighting Services.
- ii. The auxiliary work of the Civilian Departments.

The Committee co-ordinates the whole of this field, and, in addition to the Standing Sub-Committee¹ (formed in 1923 as the result of the report of a Cabinet Committee), has about fifty Sub-Committees carrying out the detailed work. It is significant of the close connexion between civil and military affairs that there is a civilian on practically every one of these Sub-Committees. Lord Balfour, speaking in 1927, brought home this interconnexion when he asserted that 'the Fighting Services are the cutting edge of a defensive machine which includes every Department of State and all the national energies which these Departments control or direct'.² The same speaker also emphasized the superiority of the Committee of Imperial Defence over a Ministry of Defence in that the latter would only co-ordinate the three Fighting Services, whereas the former includes every Government Department in its sphere, and all classes of experts on all national activities.

¹ Consisting of a Cabinet Minister (chairman), the heads of the three Services, and representatives of the Foreign Office and Treasury.

² At University of London, 11th March, 1927. Quoted in *Army Quarterly*, vol. xiv, No. 2 (July, 1927), p. 272.

The organization of the Committee 'can conveniently be compared with that of a Service Department'. The Admiralty, War Office, and Air Ministry each have:

- i. A Cabinet Minister, who presides at a Board or Council.
- ii. A First Professional Member dealing with policy, strategy, and tactics.
- iii. A Second Professional Member dealing with personnel.
- iv. A Third and (except in the Air Ministry) a Fourth Professional Member dealing with different branches of construction, supply, and transport.

Thus in the Committee of Imperial Defence there are:

The Committee of Chiefs of Staff, which corresponds to the First Professional Member.

The Man Power Committee, which corresponds to the Second Professional Member.

The Principal Supply Officers Committee, which corresponds to the Third and Fourth Professional Members.¹

The Committee of Chiefs of Staff is the most important of these. Its functions are laid down in the Salisbury Report² and have been emphasized by the issue to each member of a Warrant signed by the Prime Minister. The advantage of the system there outlined is that since each member has an individual and collective responsibility, the Committee receives, on strategical problems, collective instead of separate and possibly contradictory advice from the Services.

Secretariat

The Secretary to the Cabinet is also the Secretary to the Committee of Imperial Defence. He has four Assistant Secretaries: one from each Service, and one from India. In technical matters the Assistant Secretaries are frequently assisted by experts from the Government Departments. The Secretariat of the Committee of Imperial Defence supplies the secretariat to all the Sub-Committees.

¹ *Ibid.*, p. 267.

² See p. 109, above.

Representation of the Dominions and India

India has always been in close association with this Committee through the Secretary of State for India, who has been, from the earliest days, one of those regularly summoned to meetings. Other officials of the India Office have frequently been present, and one of the Assistant Secretaries of the Committee has always been an Officer of the Indian Army.

As early as 1903 a Dominion representative, Sir Frederick Borden, attended a meeting of the Committee, and all the Dominion representatives attended during the Conferences of 1909 and 1911. In May of the latter year the following Resolution was passed:

- a. That one or more representatives appointed by the respective Governments of the Dominions should be invited to attend meetings of the Committee of Imperial Defence when questions of naval and military defence affecting the Oversea Dominions are under consideration.
- b. The proposal that a Defence Committee should be established in each Dominion is accepted in principle. The constitution of these Defence Committees is a matter for each Dominion to decide.¹

Between 1911 and the outbreak of the War, Dominion representatives attended on several occasions, notably Sir Robert Borden and some of his colleagues in 1912; also Sir James Allen and others. Just before the outbreak of the War Sir George Perley, a Minister without Portfolio, took charge of the office of the High Commissioner for Canada, and was given authority by his Government to attend meetings of the Committee.

Since the War, however, although there have been comparatively few visits by Dominion Ministers, the Imperial Conferences have given opportunities for the discussion of Imperial Defence in general and as applied to the various Dominions individually. Arrangements are also in force whereby certain of the Dominions have liaison officers appointed to Sub-Committees of the Committee of Im-

¹ Cd. 7347, p. 5.

perial Defence and in certain cases permission has been granted for the Secretaries of Sub-Committees to correspond direct with their opposite numbers in the Dominions so long as no matters of high principle are involved. On particular matters, special consultations have taken place quite independently of the Imperial Conferences in regard to matters of defence, and advice has been freely given whenever asked.

The Dominions are always kept in the closest touch with matters of Imperial Defence, even though their representatives are not always present at the meetings, and they have been specially associated with certain important work and, in particular, that connected with the proceedings of the Disarmament Conference. Another matter on which they have been furnished with the detailed views of the Committee of Imperial Defence is the defence of Dominion ports.

General Observations

There are one or two considerations of a general nature with regard to the Committee of Imperial Defence.

a. The main reason why the Committee of Imperial Defence is purely an advisory body is that the Prime Minister of Great Britain, as chairman, can use his discretion as to the appointment of members—the membership varying in accordance with the subject-matter under examination. As these members are not limited to Ministers of the Crown or even to Members of Parliament, and also comprise representation of the Dominions, it follows that the Committee can only advise and cannot decide. The Committee advises, the Cabinet decides, and the Government Departments execute. The procedure in the case of a Dominion is of course that the decision and execution rest with the Dominion Government concerned.

b. The merit of the Committee of Imperial Defence as a central organization lies a good deal in the fact that it is inter-departmental, and can obtain close contact between the Fighting Services, Civil Servants, and civilians, and that, on the other hand, there is no tampering with

the responsibility of the Service Departments in their individual fields of co-ordination.

THE IMPERIAL DEFENCE COLLEGE

This College was started in 1927 as a supplement to the Staff Colleges already existing for each Service. Admiral Sir Herbert Richmond was appointed first Commandant. The first course opened in January, 1927, and was attended by officers from the United Kingdom, Canada, Australia, New Zealand, and India. In the case of the second course, opening in January, 1928, arrangements were made for an officer from the Union of South Africa to attend in addition to officers from those parts of the Commonwealth mentioned above.

The purpose of the College is the training of officers and civilian officials in the broadest aspects of the higher Imperial strategy; and there is a very wide field for its work in the elaboration of plans for the co-operation of forces in different parts of the world in the face of common emergencies.

9. THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL¹

The Privy Council was originally the chief advisory body of the Crown; its Judicial Committee was constituted in 1833 with a jurisdiction resting on the Royal Prerogative. In 1844, however, its jurisdiction was made statutory by the passage of the Judicial Committee Act, which gave it the right to hear appeals from all Courts in the Colonies.

The Committee consists of:

The Lord Chancellor and ex-Lords Chancellor.

The Lord President and ex-Lords President.

Persons who are, or have been, Lords of Appeal in Ordinary.

Judges of the Supreme Court in England, or of the Court of Session in Scotland.

¹ See particularly Keith (A. Berriedale): *The Sovereignty of the British Dominions*, chap. xiii, and *The Constitutional Law of the British Dominions*, chap. xi, sections 4-5.

Judges of Superior Courts in Dominions, States, or Provinces who are Privy Councillors.

Ordinarily, appeals are only from high courts, though the Committee can admit appeals from lower courts. Under certain conditions, appeals lie of right from high courts; and in cases involving principles of general importance the local courts can give special leave to appeal. The Colonial Conference discussed the matter in 1907, and recommended that the conditions under which appeals were allowed should be codified; and in practice, as regards appeals from Dominions, the conditions vary considerably.

CANADA. 1. The Committee is by statutory right the final court of appeal for the Dominion of Canada; in addition, appeals are allowed from the Supreme Court of Canada by special leave, and from provincial courts of appeal direct either by special leave or as a matter of right as defined in provincial statutes when such exist.

2. Appeals lie in constitutional cases as well as in other cases; this is of particular importance, in that the effect is that the Privy Council has had to settle cases between the Federal and Provincial Governments and generally to interpret the Dominion Constitution.

3. Opinion in Canada as to the value of the appeal has changed considerably in the course of time. When the Canadian Supreme Court was being created in 1875 it was the intention of the Canadian authorities to make its judgements final. The Law Officers of the Imperial Crown objected, the Parliament of Canada modified the law, and the appeal to the Judicial Committee was retained.

4. For many years thereafter the majority opinion in Canada appears to have been in favour of the existence of the appeal. The grounds generally adduced were that the members of the Judicial Committee had greater experience than Canadian judges, and hence, on the whole, gave better judgements; that they were impartial in regard to religious and racial disputes in Canada, and hence gave fairer treatment to the claims of the French-Canadian minority; and

that the appeal was a bond of Empire which should be maintained in the interests of Empire unity.

5. This opinion is still held by one school of thought in Canada, though it would no longer be safe to say that it is the majority opinion. Many now, for various reasons, favour the abolition of the appeal. Some feel that the appeal has become anomalous owing to the constitutional development of the Dominion. Others allege that the Judicial Committee altered the constitution of Canada for the worse by their judgements in favour of provincial rights from about 1885 to about 1925; and that this proves that the interpretation of the constitution should not be left to judges who are unfamiliar with Canadian conditions and with the Canadian situation. At the same time many French-Canadians have come to realize, largely as a result of decisions particularly affecting their minority rights, that the Canadian Supreme Court, on which they have always two representatives, has been and is likely to be as fair to them as the Judicial Committee itself. Again, it is difficult to justify the existence of a third court of appeal and the enormous expense and delay resulting from bringing a Canadian case to London.

AUSTRALIA. In general the position is the same in the case of Australia as in that of Canada; but there is one substantial difference, namely, that constitutional cases involving issues between the Commonwealth and the States, or between the States *inter se*, can only be brought to the Committee on the grant of a special certificate by the High Court. Moreover, the Commonwealth Constitution provides for the limitation of the appeal by a Commonwealth Bill (requiring reservation for the signification of His Majesty's pleasure).

NEW ZEALAND. The right of the Committee to hear appeals is subject to no limitations and they are, in fact, brought as regularly as occasions for them occur.

SOUTH AFRICA. The Constitution intentionally limits appeals to cases in which leave is granted by the Com-

mittee only for appeals from the Appellate Division of the Supreme Court. The result has been that comparatively few cases have been brought: the intention being to confine them to cases raising international or other issues of general importance.

IRISH FREE STATE. 1. The position with regard to appeals is somewhat different. Article 66 of the Free State Constitution provides that the decision of the Free State Supreme Court is in all cases to be 'final and conclusive', and not 'capable of being reviewed by any other Court, Tribunal, or Authority whatsoever'. Nothing in the Constitution, however, is to 'impair the right of any person to petition His Majesty in Council, or the right of His Majesty to grant such leave'. The explanation of this contradiction appears to be that the appeal was to be preserved in form, but limited in the same way as in the case of South Africa, that is to say, to exclude purely domestic issues, and deal only with questions of international or wide public importance.

2. From the very first there was a strong body of opinion in the Free State in favour of abolishing the appeal altogether; partly on the general grounds that the Committee is a British Court and that the appeal to it therefore constitutes a definite infringement of autonomy; and partly owing to its practical ineffectiveness in dealing with the appeals that have been brought. The abolition has recently been completed by Act of the Free State Government, 1933,¹ to which the Royal Assent was given on 16th November, 1933.

NEWFOUNDLAND. The same conditions can be said to apply as in the case of New Zealand.

In general, the advantages of the appeal are that the Committee is a body the impartiality and legal talent of which are beyond all question; and, moreover, it has helped to preserve a certain measure of uniformity in the inter-

¹ Constitution (Amendment No. 22) Act, 1933 (No. 45 of 1933). For the Debate in the Seanad Eireann, see *Parliamentary Debates (Irish)*, vol. xvii, Nos. 8, 9, 10, of 18th, 25th, 31st October, 1933.

pretation of English Common Law in the different parts of the Commonwealth. On the other hand, it is slow and expensive and suggestions that it should become a more Imperial body by a stronger representation of the Dominions do not seem very likely to be given practical effect. Undoubtedly, it does constitute a limitation of Dominion autonomy.

The question of its continuance was raised at the Imperial Conference of 1926, and discussed by the Balfour Committee who reported:

From these discussions it became clear that it was no part of the policy of His Majesty's Government in Great Britain that questions affecting judicial appeals should be determined otherwise than in accordance with the wishes of the part of the Empire primarily affected. It was, however, generally recognized that, where changes in the existing system were proposed which, while primarily affecting one part, raised issues in which other parts were also concerned, such changes ought only to be carried out after consultation and discussion.¹

This declaration was essentially in accordance with the principle laid down by Lord Haldane in *Hull v. M'Kenna* that the Judicial Committee, in granting leave of appeal, must be guided by the wishes of the Dominions concerned, and that it became 'with the Dominions more and more or less and less as they pleased'.²

No formal declaration was made on the question at the Imperial Conference of 1930; but according to Professor Berriedale Keith the effect of the Statute of Westminster (1931) is as follows:

The statute does not directly deal with the right of appeal to the Privy Council, or more accurately the power of the Crown under the prerogative and statute of 1844 alike to grant special leave to appeal from any decision of Dominion Courts, unless that right has been taken away by an Imperial Act, as in the case of certain constitutional issues as between the Commonwealth and the States or the States *inter se* in Australia. But the power to alter Imperial Acts leaves it open to the Union, to New Zealand, and to Newfoundland to remove the right to appeal. . . . In the case of the Federations the appeal can effectively be abolished only as part of

¹ *Cmd.* 2768, p. 19.

² *Hull v. M'Kenna* (1926), I.R., p. 405.

constitutional change, which in Australia can be effected by a referendum, but in Canada needs an Imperial Act. This limitation of Canadian action rests on the compact character of the Federation, and the inability so far of the Provinces to agree on any system under which amendment could be carried out in Canada itself.¹

This view of Professor Keith's may, however, be questioned by a certain school of thought in Canada which holds that, although the Federal Parliament may not be able to abolish the appeal in respect of matters within Provincial competence, this is not necessarily the case in respect of matters of Federal competence.

It remains only to note that the King has the power of referring matters to the Privy Council at his discretion; and it has been used thus in settling questions of a semi-judicial nature (e.g. boundary issues). It has also been suggested that it might be used for the settlement of disputes between Governments of the Commonwealth, but the scheme for an *ad hoc* tribunal evolved by the Imperial Conference of 1930 has met with more approval for this purpose.

10. SCHEME FOR AD HOC TRIBUNAL TO DEAL WITH JUSTICIABLE DISPUTES BETWEEN GOVERNMENTS OF THE COMMONWEALTH

The Conference on the Operation of Dominion Legislation considered the question of the establishment of a Commonwealth Tribunal, and their Report was further elaborated at the Imperial Conference, 1930.

The recommendations of the Imperial Conference were as follows:

The Report of the Conference on the Operation of Dominion Legislation contains the following paragraph (Paragraph 125):

'We felt that our work would not be complete unless we gave some consideration to the question of the establishment of a tribunal as a means of determining differences and disputes between Members of the British Commonwealth. We were impressed with the advantages which might accrue from the establishment of such a tribunal. It was clearly impossible in the time at our disposal to do

¹ Keith (A. Berriedale): *Speeches and Documents on the British Dominions, 1918-31*, Introduction, p. xxx.

more than collate various suggestions with regard first to the constitution of such a tribunal, and secondly, to the jurisdiction which it might exercise. With regard to the former, the prevailing view was that any such tribunal should take the form of an *ad hoc* body selected from standing panels nominated by the several Members of the British Commonwealth. With regard to the latter, there was general agreement that the jurisdiction should be limited to justiciable issues arising between Governments. We recommend that the whole subject should be further examined by all the Governments.¹

This matter was examined by the Conference and they found themselves able to make certain definite recommendations with regard to it.

Some machinery for the solution of disputes which may arise between the Members of the British Commonwealth is desirable. Different methods for providing this machinery were explored and it was agreed, in order to avoid too much rigidity, not to recommend the constitution of a permanent court, but to seek a solution along the line of *ad hoc* arbitration proceedings. The Conference thought that this method might be more fruitful than any other in securing the confidence of the Commonwealth.

The next question considered was whether arbitration proceedings should be voluntary or obligatory, in the sense that one party would be under an obligation to submit thereto if the other party wished it. In the absence of general consent to an obligatory system it was decided to recommend the adoption of a voluntary system.

It was agreed that it was advisable to go further, and to make recommendations as to the competence and the composition of an arbitral tribunal, in order to facilitate resort to it, by providing for the machinery whereby a tribunal could, in any given case, be brought into existence.

As to the competence of the Tribunal, no doubt was entertained that this should be limited to differences between Governments. The Conference was also of opinion that the differences should only be such as are justiciable.

As to the composition of the Tribunal it was agreed:

1. The Tribunal shall be constituted *ad hoc*, in the case of each dispute to be settled.
2. There shall be five members, one being the Chairman; neither the Chairman nor the members of the Tribunal shall be drawn from outside the British Commonwealth of Nations.

¹ *Cmd.* 3479, p. 41.

MACHINERY OF CO-OPERATION

3. The members, other than the Chairman, shall be selected as follows:
 - a. One by each party to the dispute from the Members of the Commonwealth other than the parties to the dispute, being persons who hold or have held high judicial office or are distinguished jurists and whose names will carry weight throughout the Commonwealth.
 - b. One by each party to the dispute from any part of the Commonwealth, with complete freedom of choice.
4. The members so chosen by each party shall select another person as Chairman of the Tribunal as to whom they shall have complete freedom of choice.
5. If the parties to the dispute so desire, the Tribunal shall be assisted by the admission as assessors of persons with special knowledge and experience in regard to the case to be brought before the Tribunal.

It was thought that the expenses of the Tribunal itself in any given case should be borne equally by the parties, but that each party should bear the expense of presenting its own case.

It was felt that details as to which agreement might be necessary might be left for arrangement by the Governments concerned.¹

The question of the Tribunal arose recently in connexion with the question of the Oath and the Land Annuities in the Irish Free State. The Secretary of State for Dominion Affairs offered to Mr. de Valera that the questions at issue should be referred to a Tribunal established *ad hoc*. Mr. de Valera's reply, dated 16th June, 1932, was as follows:

The proposal of the British Government for arbitration on the question of the land annuities has been considered by the Government of the Irish Free State. The Government of the Irish Free State accepts the principle of arbitration and agrees that a Tribunal of the general character outlined in the Report of the Imperial Conference of 1930 would be suitable, but it is unable to agree to the restriction of the personnel of the Tribunal solely to citizens of the States of the British Commonwealth.²

¹ *Cmd. 3717*, pp. 22-4.

² *The Times*, 18th June, 1932. For the Debate on the subject in the Seanad Eireann, see *Parliamentary Debates (Irish)*, vol. xv, No. 16 20th July, 1932, cols. 1376-82.

PART II

THE PRACTICE AND PROCEDURE FOR REPRESENTATION AT INTERNATIONAL CONFERENCES AND FOR THE NEGOTIA- TION AND RATIFICATION OF TREATIES

1. REPRESENTATION AT INTERNATIONAL CONFERENCES

THE PEACE CONFERENCES

PRIOR to 1914 Great Britain retained a free hand in the conduct of high policy, subject only to an agreement to inform and consult with the Dominions whenever she deemed it expedient. But the outbreak of the Great War demonstrated the inadequacy of this arrangement, for with their active participation in the struggle the Dominions developed an increasing interest in the progress of the international situation and came to demand an effective voice in the settlement of the peace. Both in 1915, and again in 1917 and 1918, British Ministers made specific promises that, when the time came, the terms of peace should be discussed most fully with the Dominion representatives. Indeed, not only did the British Government return a favourable response to the specific demand from the Dominions for a voice in the peace settlement, but, in June, 1916, representatives of Canada and Australia attended the Economic Conference in Paris and on the 14th December, 1916, the Dominion Prime Ministers were invited to attend a series of special and continuous meetings of the newly formed War Cabinet

in order to consider urgent questions affecting the prosecution of the War, the possible conditions on which, in agreement with our allies, we would assent to its termination, and the problems which will then arise.¹

The first session of the Imperial War Cabinet was held in March, 1917, and it adjourned on 2nd May of the

¹ See p. 219, below.

same year. The second plenary session lasted from June to August, 1918, and a third was called in September of the same year. The Dominions were represented by their Prime Ministers, by other Ministers, or by both. Where several other Ministers accompanied the Prime Minister, they attended the Cabinet Meetings under a panel system. At the second session, a Resolution was adopted authorizing each Minister to name a colleague, either a resident or a visitor, to act for him at the meetings held between the plenary sessions. The general nature of the peace terms had been a subject of discussion at every session of the Imperial War Cabinet, the overseas members of which not only helped to settle the policy to be adopted by the British Government at the session of the Allied Supreme War Council at Versailles in July, 1918, but also attended one of the meetings of the Supreme War Council in person.¹ It remained therefore to be seen what part was to be taken by the Dominions in the actual Peace Conference.

When the question arose as to the representation of the Dominions at the Peace Conference, the Dominion statesmen urged that they should be separately represented. The basis for this claim was to ensure that, as countries which had made sacrifices comparable with those of any of the Allies, they should be able to play a full part in all the proceedings of the Conference. The Principal Powers decided that the smaller Powers should not be admitted to the proceedings except when their special interests were concerned: it was necessary, therefore, in order to meet the just claims of the Dominions, that a composite arrangement should be made whereby they should have the status of smaller Powers in virtue of which they could be called in when they had special interests, and could also be on the British Empire panel so that they could be represented in the general deliberations of the Conference.

They thus demanded, and, supported by the British Prime Minister, obtained, a dual position at the Conference which amounted to this: As 'Belligerent Powers with special interests', Canada, Australia, South Africa, and

¹ The War Cabinet: *Report for the Year 1918*, Cmd. 325, p. 9.

India were each represented by two Plenipotentiary Delegates; New Zealand was represented by one such Delegate. In addition to this direct representation, it was stipulated that 'the representatives of the Dominions (including Newfoundland) and of India, can, moreover, be included in the representation of the British Empire by means of a panel system'.¹ As 'Belligerent Powers with special interests', their representatives were entitled to be summoned in their own right when questions in which they had a concern were being discussed. As participants by way of the panel system in the British Delegation, the Dominion representatives participated in all sessions and commissions, the British Empire being classed as a 'Belligerent Power with general interests'. Further, Dominion representatives sat on various commissions dealing with special problems. Thus the Dominions, at the Conference, may be said unquestionably to have obtained far greater opportunity of having their wishes expressed than did the minor Powers which were co-belligerent in the War.

It has been seen that, from the point of view of the Dominions, the problem of participation was settled satisfactorily. As regards the signature and ratification of the resultant Treaties, the Dominions also pressed their claims, Sir Robert Borden urging that the Treaties should be so drafted as to enable the Dominions to become parties and signatories thereto, and that the Dominion Governments should be formally consulted before ratifications were expressed.²

THE LEAGUE OF NATIONS

The constitution of the Peace Conferences was reflected in the constitution of the League of Nations. Again, foreign States were opposed to individual membership for the several Dominions. Again, the persistence of the Dominion Prime Ministers, supported by the British Prime Minister, broke down this opposition. And, yet

¹ Keith (A. Berriedale): *Speeches and Documents on the British Dominions, 1918-31*, p. 14.

² See pp. 137-50, below.

again, individual membership of the League was not permitted to interfere with the principle that the British Empire remained a unit. All these aspects were noted above in dealing with the Dominion representation at the Peace Conference. They must now be noted again. For the British Empire as such was accorded membership of the League and a permanent place on its Council and beside it, as at once independent League Members and, at the same time, component parts of the Empire, were grouped Canada, Australia, South Africa, New Zealand, and India. This position created some theoretical legal difficulties with regard to the position of the British representative on the Council, but the practice is straightforward. He represents the United Kingdom and those parts of the British Empire which are not separate Members of the League. As such he is not the representative of the Dominions but must bear their interests in mind and consult fully with them when such interests may be affected. It was stated from the outset, however, that membership of the Council was open to the Dominions and, though at first this contingency did not seem likely to arise, the real equality of the Dominions with other Members of the League was assured. The limitations to this doctrine will be discussed below.

The Irish Free State came into existence officially on 6th April, 1922. On 20th April, 1923, the Minister for External Affairs made formal application for admission to membership of the League. The Free State was admitted on 10th September of the same year, its direction being carried out exactly as if an independent State were applying to be admitted. In 1926 the Irish Free State, without British support, sought in vain to obtain election to the Council. In 1927, however, Canada was elected to a non-permanent seat. In 1930, when Canada's three years' term came to an end, the Irish Free State succeeded the Dominion in being elected to a non-permanent seat on the Council. On the retirement of the Free State in 1933, the Commonwealth of Australia was elected to a seat.

It may be pertinent here to discuss the limitations to the

doctrine of the equality of the Dominions with other League Members. First as regards voting in the League Assembly. On 11th March, 1920, Mr. Newton W. Rowell, in the Canadian House of Commons, stated that it was the view of his Government and of that of the United Kingdom that, in the event of a dispute arising between a Dominion and a foreign country and in the event of such a dispute (not being suitable for arbitration or judicial settlement) being referred under the Covenant to the Assembly of the League for investigation and report, then in voting on the issue no other part of the Empire, as being an interested party, could exercise the right of voting, the same rule to apply to the League Council.¹ Some of the authorities on the Constitutional Law of the Commonwealth do not agree with this contention. Mr. Noel Baker expresses the opinion² that there can be international disputes involving the exclusive national interest of a single Dominion and, therefore, only indirectly affecting the other Members of the Commonwealth and that, if such a dispute arises, the other Members of the Commonwealth need not necessarily be regarded, and probably will not wish to be regarded, as parties to that dispute. It should be noted that, since Mr. Rowell made his speech, the status of the Dominions and their relation to foreign policy have undergone substantial modification. It should also be noted that in March, 1929, the British Government suggested that the Statute of the Permanent Court of International Justice should be amended so as to make it clear that, if a Dominion were engaged in a case before it, it would be legitimate for the Dominion to have on the Court its own national judge in addition to the judge representing the British Empire or the United Kingdom. This suggestion was, however, opposed by certain nations and the alteration was not made.

Again, on 11th July, 1924, the representative of the Irish Free State at Geneva registered with the Secretariat of the League (in accordance with Article 18 of the

¹ *House of Commons Debates (Canada)*, 1920, vol. i, pp. 351-2.

² Baker: *Juridical Status of the British Dominions*, p. 328.

Covenant) the agreement with Great Britain of 6th December, 1921. His Majesty's Government promptly addressed a Note to the Secretary-General raising objections to this action:

Since the Covenant of the League of Nations came into force His Majesty's Government has consistently taken the view that neither it nor any convention concluded under the auspices of the League are intended to govern relations *inter se* of various parts of the British Commonwealth. His Majesty's Government considers, therefore, that the terms of Article 18 of the Covenant are not applicable to the Articles of Agreement of 6th December, 1921.¹

The Irish Free State, however, maintained its point of view, and the Agreement was duly published in the *League of Nations Treaty Series*, but the British Note and the Irish reaffirmations appeared in the next volume. The underlying principle, however, was dealt with in the Report of the Inter-Imperial Relations Committee, adopted by the Imperial Conference of 1926, when it speaks of the making of treaties 'in the name of the King as the symbol of the special relationship between the different parts of the Empire'.²

THE CONFERENCE ON THE LIMITATION OF ARMAMENTS AT WASHINGTON, 1921-2

The procedure established at the Paris Peace Conference set a precedent for the procedure for Dominion representation at the Washington Conference. At the outset, however, a check to this precedent might seem to have been offered for when, in the autumn of 1921, the President of the United States issued the invitations to the Conference, an invitation was extended to the Government of the United Kingdom alone, the status of the self-governing Dominions receiving, apparently, no consideration. Sir Robert Borden has stated that if the United States had been a Member of the League separate invitations would probably have been sent to the Dominions.

For a time it looked as though certain of the Dominions

¹ *League of Nations Treaty Series*, xxvii, p. 449. ² See p. 140-2, below.

might stand aloof from the Conference and decline to be bound by any resulting treaty or convention. In the end, however, due regard was had to the importance and significance of the Conference, and it was decided that the Dominions should overlook the omission. Accordingly the British Government suggested a British Empire Delegation which was satisfactory to the Dominions, and His Majesty appointed the Dominions members of the British Empire Delegation on the advice of his Dominions advisers. Arising out of this arrangement, separate 'full powers' were issued by the Crown to the representatives of the Dominions and, in the formal parts of the treaties resulting from the Conference, each Dominion plenipotentiary signed on behalf of the Government which he represented. Thus Lord Balfour signed twice, once without specification, on behalf of His Majesty's Government in the United Kingdom and a second time on behalf of the Government of the Union of South Africa, since he had been appointed representative for this Dominion.

A comparison is immediately invited between the procedure adopted at the Paris Peace Conference and that followed at Washington. There was, technically, this difference: at Washington the Dominions did not obtain that dual representation which, at Paris, had given them a peculiarly effective position. Although at Washington the Dominions were as effectively represented on the British Empire Delegation as they had been at Paris, they were not on this occasion represented by delegations of their own. On the other hand, Sir Robert Borden declared that 'the status and distinct consideration that the Dominions had received at Paris were accorded them at Washington'.¹ At Paris, as at Washington, the British Empire Delegation had controversial discussion on various subjects but in the end spoke with one voice. At both Conferences Dominion delegates represented the British Empire Delegation on various sub-committees; and in all essentials the position of the Dominions was the same in both cases.

¹ Borden (Robert L.): 'The British Commonwealth of Nations', in *Yale Review*, July, 1923.

THE LAUSANNE CONFERENCE, 1922-3

The precedent created at Paris and maintained at Washington to the extent above described was not followed in any respect in the composition of the British Empire Delegation at the Peace Conference held at Lausanne between the Allied Powers and Turkey. It would appear that France raised objections to the separate representation of the Dominions at this Conference and the British Government yielded. Be that as it may, on 27th October, 1922, it was intimated to the Dominions that arrangements had been made that the British Empire would be represented by two Plenipotentiaries (Lord Curzon was to be one, and the British High Commissioner at Constantinople the other); that the Dominions would be kept informed of the general lines of policy which the British delegates would follow and of the course of the negotiations; and that in due course they would be asked to sign any new treaty and the conventions regulating the position of the Straits.

This intimation elicited an exchange of views between the Governments of the United Kingdom and of Canada; while, on the one hand, the British Government insisted on the suggestion that the procedure adopted was in substance the same as that followed at Versailles, the Canadian Government, on the other, made it clear that it viewed the Lausanne procedure in a quite different light. While no exception was taken to the course pursued, the warning was explicit:

The extent to which Canada may be held to be bound by the proceedings of the Conference, or by the provisions of the treaty, or any other instruments arising out of the same is necessarily a matter for the Parliament of Canada to decide, and the rights and powers of our Parliament in the particulars must not be held to be affected by implication or otherwise in virtue of information with which our Government may be supplied.¹

The British Government, then, with the concurrence of the other Dominions, decided to restrict the signature to the actual British Plenipotentiaries, and Canada acquiesced.

¹ *Cmd. 2146*, p. 4; also quoted in Keith (A. Berriedale): *Speeches and Documents on the British Dominions, 1918-31*, p. 326.

When, however, ratifications were to be exchanged, whereas the Governments of India, New Zealand, Australia, and South Africa signified their concurrence, Canada once more stood out: she had not been a signatory; she could scarcely, therefore, be expected to give parliamentary approval to the treaty and without such approval the Canadian Government could take no responsibility as to ratification. It was added, however, that they would 'take no exception to such course as His Majesty's Government may deem it advisable to recommend'. The Irish Free State also hesitated to concur in ratification. Actually the Free State ratified the treaty in July, 1924, but it was made clear that no active obligation of any sort was undertaken and that she was mainly concerned to have the state of war existing between the Empire and Turkey terminated.

THE FINDINGS OF THE IMPERIAL CONFERENCE OF 1923

On 2nd March, 1923, the Halibut Treaty between Canada and the United States was signed by Mr. Lapointe and Mr. Hughes, and for the first time a treaty was not only negotiated by a Dominion representative alone, but also signed by him alone. This incident, taken in conjunction with the correspondence which passed between Ottawa and London relative to the Treaty of Lausanne, led to an investigation of the whole subject of the negotiation, signature, and ratification of treaties at the meeting of the Imperial Conference which opened in London on 1st October, 1923. The subject of the negotiation of treaties alone concerns us here.

The following Resolution was drawn up and agreed to by a Committee consisting of representatives of the Dominions (including Newfoundland) and India, under the chairmanship of the British Secretary of State for Foreign Affairs.

Negotiation.

a. It is desirable that no treaty should be negotiated by any of the Governments of the Empire without due consideration of its possible effects on other parts of the Empire, or, if circumstances so demand, on the Empire as a whole.

b. Before negotiations are opened with the intention of concluding a treaty, steps should be taken to ensure that any of the other Governments of the Empire likely to be interested are informed, so that, if any such Government considers that its interests would be affected, it may have an opportunity of expressing its views, or, when its interests are intimately involved, of participating in the negotiations.

c. In all cases where more than one of the Governments of the Empire participates in the negotiations, there should be the fullest possible exchange of views between those Governments before and during the negotiations. In the case of treaties negotiated at International Conferences, when there is a British Empire Delegation, or when, in accordance with the now established practice, the Dominions and India are separately represented, such representation should also be utilized to attain this object.

d. Steps should be taken to ensure that those Governments of the Empire whose representatives are not participating in the negotiations should, during their progress, be kept informed in regard to any points arising in which they may be interested.¹

THE LONDON REPARATIONS CONFERENCE, JULY—AUGUST, 1924

During the preparations for the London Reparations Conference, a preliminary meeting of delegates of Great Britain and the Dominions was held in order to arrange for representation at the Conference itself. The Dominion representatives intimated at the outset of the preliminary meeting that, in their opinion, representation should follow the findings of the 1923 Imperial Conference and the precedents set at Versailles and Washington, whereby each Dominion would be separately represented by its delegate, bearing full powers from His Majesty to act, as respected the Dominion, in the name of His Majesty. It was subsequently intimated by the British Prime Minister that it would not be possible for more than three representatives of the British Empire to be present at the Conference proper, and it was suggested that those three would necessarily be members of His Majesty's Government in

¹ Imperial Conference, 1923: *Summary of Proceedings, Cmd. 1987*, p. 13.

the United Kingdom. The Canadian representative intimated that this arrangement would not satisfy the Dominion. It was found impossible to arrive at definite arrangements before the Inter-Allied Conference opened, and at the first plenary session (16th July, 1924) the Dominions were not directly represented. On 18th July, however, the Secretary of State for the Colonies announced that:

It has been settled that representatives of any of the Dominions so desiring, and of India, shall become members of the British Empire Delegation at the Conference on the panel system, and it has also been arranged for the representatives so appointed to be present at the meetings of the Conference on days when it is not their turn to sit as members of the British Empire Delegation. This will ensure that they are fully acquainted with all that goes on in the Conference. The plan adopted is a special one for this particular Conference and is not to be regarded or quoted as a precedent.¹

Thus from 18th July, 1924, onwards the Dominions (with the exception of the Irish Free State) and India were represented at the Reparations Conference in accordance with this plan, and in addition the whole panel of delegates from Great Britain, the Dominions, and India, from which the British Empire Delegation was drawn, held a plenary private meeting every day so long as the Conference lasted. The Irish Free State was not represented since the subject-matter of the Conference was not of special concern to the Free State.

THE LOCARNO NEGOTIATIONS, 1925

The change of Government in the United Kingdom resulted in a reversal of policy with regard to the Geneva Protocol for the Pacific Settlement of International Disputes of 1924; nor did the Dominions show any great anxiety to oppose this change of policy.

In order, however, to take some step towards the maintenance of security, the British Government opened the Locarno negotiations. Constant communication was exchanged with the Dominions Governments during these

¹ *House of Commons Debates* (London), 5th series, vol. clxxvi, col. 750.

negotiations, but by correspondence, not personal consultation. This being so, the British Government accepted sole responsibility for the guarantees given at Locarno, a clause being inserted to enable any Dominion that so desired to accept the obligations.

THE CONCLUSIONS OF THE IMPERIAL CONFERENCE OF 1926

In the light of the Resolution on the negotiation, signature, and ratification of treaties approved by the Imperial Conference of 1923, the question of the representation of the different parts of the British Empire at International Conferences was studied by the Inter-Imperial Relations Committee of the Imperial Conference of 1926, which summarized its conclusions as follows:

1. No difficulty arises as regards representation at conferences convened by, or under the auspices of, the League of Nations. In the case of such conferences all Members of the League are invited, and if they attend are represented separately by separate delegations. Co-operation is ensured by the application of paragraph I. 1 (c) of the Treaty Resolution of 1923.¹
2. As regards international conferences summoned by foreign Governments, no rule of universal application can be laid down, since the nature of the representation must, in part, depend on the form of invitation issued by the convening Government.
 - a. In conferences of a technical character it is usual and always desirable that the different parts of the Empire should (if they wish to participate) be represented separately by separate delegations, and where necessary efforts should be made to secure invitations which will render such representation possible.
 - b. Conferences of a political character called by a foreign Government must be considered on the special circumstances of each individual case.

It is for each part of the Empire to decide whether its particular interests are so involved, especially having regard to the active obligations likely to be imposed by a resulting treaty, that it desires to be represented at the Conference, or whether it is content to leave the negotiation in the hands of the part or parts of the Empire more directly concerned and to accept the result.

If a Government desires to participate in the conclusion of a treaty, the method by which representation will be secured is a

¹ For this paragraph, see p. 132, above.

matter to be arranged with the other Governments of the Empire in the light of an invitation which has been received.

Where more than one part of the Empire desires to be represented three methods of representation are possible:

- i. By means of a common plenipotentiary or plenipotentiaries, the issue of full powers to whom should be on the advice of all parts of the Empire participating.
- ii. By a single British Empire delegation composed of separate representatives of such parts of the Empire as are participating in the Conference. This was the form of representation employed at the Washington Disarmament Conference of 1921.
- iii. By separate delegations representing each part of the Empire participating in the Conference. If, as a result of consultation, this third method is desired, an effort must be made to ensure that the form of invitation from the convening Government will make this method of representation possible.

Certain non-technical treaties should, from their nature, be concluded in a form which will render them binding upon all parts of the Empire, and for this purpose should be ratified with the concurrence of all the Governments. It is for each Government to decide to what extent its concurrence in the ratification will be facilitated by its participation in the conclusion of the treaty, as, for instance, by the appointment of a common plenipotentiary. Any question as to whether the nature of the treaty is such that its ratification should be concurred in by all parts of the Empire is a matter for discussion and agreement between the Governments.¹

THE CONFERENCE FOR THE LIMITATION OF NAVAL ARMAMENTS, GENEVA, JUNE—AUGUST, 1927

At this Conference, from which no agreement emerged, the Dominions were represented by separate delegations (following the third of the three alternative methods of representation set out in the Report of the Inter-Imperial Relations Committee of 1926). Distinct invitations were sent to the Dominion Governments and, in fact, the delegations were not formally a unity. Thus the Dominions were represented on a footing of equality not only with Great Britain, but also with two foreign Powers—the United States and Japan.

¹ *Cmd. 2768*, pp. 24–5.

THE BRIAND-KELLOGG PACT, 1928

The Briand-Kellogg Pact did not emerge from the deliberation of an international conference. While the first impulse was given by the French proposal to include a renunciation of war in the renewal of the Franco-American Arbitration Treaty, the idea of extending the proposals to a general pact came from the United States. It remains here merely to note that, while the United States' *démarche* was addressed to the Imperial Government alone, Sir Austen Chamberlain immediately stipulated that the proposed treaty was of such a nature as necessitated joint and simultaneous participation with the Dominion and Indian Governments and that, as a consequence of this declaration, the United States immediately addressed requests for participation to the Dominions and to India.¹

THE HAGUE CONFERENCES, 1929 AND 1930

Following the report made by the Committee of Financial Experts on 7th June, 1929, the Governments of Germany, Belgium, France, Great Britain, Italy, and Japan decided that the conclusions of the report concerned, among other Governments, the Governments of Canada, Australia, New Zealand, South Africa, and India. Accordingly these Governments were invited to take part in the negotiations and agreements affecting them. Thus, once again, in the case of The Hague Conferences, the third of the three alternatives² prescribed by the Resolution of the 1926 Inter-Imperial Relations Committee was employed.

THE INTERNATIONAL CONFERENCE FOR THE LIMITATION AND REDUCTION OF NAVAL ARMAMENTS, LONDON, 1930

At this Conference the third of the three alternatives prescribed by the Resolution of the 1926 Inter-Imperial Relations Committee was once more employed as regards the representation of the Dominions and of India.²

¹ See p. 155, below.

² See p. 135, above.

2. PROCEDURE WITH REGARD TO BILATERAL NEGOTIATIONS

RESOLUTIONS OF THE IMPERIAL CONFERENCES OF 1923, 1926, AND 1930

The following is an outline of the procedure obtaining when a Dominion is a party to bilateral negotiations resulting in bilateral agreements and treaties. It may be said that treaty-making power was inherent in Dominion status, for responsible self-government implied full parliamentary control over fiscal matters, and that it followed that the executive responsible to a Dominion Parliament had the right to negotiate such commercial and technical treaties with foreign countries as might be necessary for the exercise of such fiscal control by Parliament.

There was, however, an initial problem of procedure. The Dominions lacked that complete system of diplomatic channels between themselves and foreign States which the negotiation and conclusion of bilateral treaties seemed to demand. Because of this deficiency, bilateral treaties and agreements negotiated by Dominion Governments with foreign Governments were conducted through the diplomatic channels afforded by the British Diplomatic Service. From this starting-point, the treaty-making powers of the Dominions began to develop. On the one hand there was a tendency to discard the British diplomatic channels, and on the other a tendency to enter into negotiations with foreign Governments over matters extending beyond the bounds of the commercial and technical field.

Both these tendencies are well illustrated in the negotiation and signature of a treaty between the Government of Canada and the United States for the preservation of the halibut fishery of the North Pacific Ocean. International controversies over fisheries had always been regarded as having political and territorial (as well as commercial and technical) implications, yet in the case of the Halibut Treaty of 2nd March, 1923, the negotiations were conducted, not by the Foreign Office in Whitehall in consultation with the Canadian Minister of Marine and

Fisheries, but by Mr. Lapointe, Canadian Minister of Marine and Fisheries, on the King's behalf. Moreover, while former commercial agreements negotiated by a Dominion with a foreign Power had invariably been signed by the British Ambassador accredited to such a Power in association with the Dominion representative, Mr. Lapointe, in the King's name, alone signed the Halibut Treaty. The importance of this innovation can be seen when it is realized that the only agreements with foreign countries which down to that time had been signed as well as negotiated by Dominion representatives alone had been informal agreements.

The Halibut Treaty was signed by Mr. Lapointe under the 'full power' issued to him by the King for the purpose, and this 'full power' contained no mark of any limitation of Mr. Lapointe's representation, or indication that he signed in any other capacity than would have been filled if the British Ambassador at Washington had signed with him, or alone. The instrument was subsequently ratified by the King under the Great Seal of the United Kingdom. Prior to the signature of the Treaty, communications passed between the British Ambassador at Washington and the Canadian Governor-General, the Ambassador claiming that he had been instructed by the Government of the United Kingdom to sign the Instrument in association with Mr. Lapointe and the Governor-General claiming that, as the Treaty solely affected Canada and the United States, the signature of Mr. Lapointe would be sufficient. In the light of this last declaration the Imperial Government withdrew from its position.

The conclusion of the Halibut Treaty on 2nd March, 1923, led to an investigation of the whole subject of the negotiation, signature, and ratification of treaties when the Imperial Conference met in London on 1st October, 1923.¹

Professor Berriedale Keith thus summarizes the rulings that emerged from this discussion:

Any Government, whether British or Dominion, which desired to negotiate a treaty should take care to inform any other Govern-

¹ See p. 131, above.

ment which was likely to be interested, in order that it could consider what its attitude towards the negotiations should be, and whether it should participate in the negotiations. There should be the most complete consultation between Governments interested, and care should be taken to keep Governments which did not participate informed of any matters arising in which they might be interested. When treaties had been negotiated, they should be signed by plenipotentiaries representing the Government concerned, and the full powers issued should make clear the part of the Empire in respect of which the treaty was concluded, while the extent of the application of the treaty should further be made clear in the preamble and text. Where the treaty imposed obligations on more than one part of the Empire, it should be signed by one or more plenipotentiaries on behalf of all the Governments concerned. Ratification similarly should be effected in the case of the Empire at the instance of the Government of that part; if more than one part were affected, ratification should be carried out after consultation between the Governments concerned. Each Government must be the judge whether Parliamentary approval or legislation was requisite before desire for, or concurrence in, ratification was expressed.

At the same time, formal approval was for the first time given to the conclusion of agreements of a non-treaty character, usually on technical or administrative matters, by Governments. Such agreements differ from treaties in that they are not concluded in the name of the King, though they may be subject to confirmation by the Governments; the negotiators do not receive full powers from the King, but merely instructions from their Governments. Each Government is solely responsible for such agreements, but it was recommended that any Government which intended to negotiate such an informal agreement should communicate its intention to the Government of any other part of the Empire which might be affected in order to give it a chance of expressing its views.¹

In the interval between the Imperial Conferences of 1923 and 1926 a certain divergence of views sprang up as to the exact working of the 1923 Resolution. Accordingly, the 1926 Imperial Conference returned to the question and, while approving generally the principles

¹ Keith (A. Berriedale): *The Sovereignty of the British Dominions*, 2P. 374-5.

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thus laid down, suggested certain modifications and supplementation:

Negotiation.

It was agreed in 1923 that any of the Governments of the Empire contemplating the negotiation of a treaty should give due consideration to its possible effect upon other Governments and should take steps to inform Governments likely to be interested of its intention.

This rule should be understood as applying to any negotiations which any Government intends to conduct, so as to leave it to the other Governments to say whether they are likely to be interested.

When a Government has received information of the intention of any other Government to conduct negotiations, it is incumbent upon it to indicate its attitude with reasonable promptitude. So long as the initiating Government receives no adverse comments and so long as its policy involves no active obligations on the part of the other Governments, it may proceed on the assumption that its policy is generally acceptable. It must, however, before taking any steps which might involve the other Governments in any active obligations, obtain their definite assent.

Where by the nature of the treaty it is desirable that it should be ratified on behalf of all the Governments of the Empire, the initiating Government may assume that a Government which has had full opportunity of indicating its attitude and has made no adverse comments will concur in the ratification of the treaty. In the case of a Government that prefers not to concur in the ratification of a treaty, unless it has been signed by a plenipotentiary authorized to act on its behalf, it will advise the appointment of a plenipotentiary so to act.

Form of Treaty.

Some treaties begin with a list of the contracting countries and not with a list of Heads of States. In the case of treaties negotiated under the auspices of the League of Nations, adherence to the working of the Annex to the Covenant for the purpose of describing the contracting party has led to the use in the preamble of the term British Empire and with an enumeration of the Dominions and India if parties to the Convention but without any mention of Great Britain and Northern Ireland and the Colonies and Protectorates. These are only included by virtue of their being covered by the term British Empire. This practice, while suggesting that the Dominions and India are not on a footing of equality with

Great Britain as participants in the treaties in question, tends to obscurity and misunderstanding and is generally unsatisfactory.

As a means of overcoming this difficulty it is recommended that all treaties (other than agreements between Governments) whether negotiated under the auspices of the League or not should be made in the name of Heads of States, and, if the treaty is signed on behalf of any or all of the Governments of the Empire, the treaty should be made in the name of the King as the symbol of the special relationship between the different parts of the Empire. The British units on behalf of which the treaty is signed should be grouped together in the following order: Great Britain and Northern Ireland and all parts of the British Empire which are not separate Members of the League, Canada, Australia, New Zealand, South Africa, Irish Free State, India. A specimen form of treaty as recommended is attached as an appendix to the Committee's Report.

In the case of a treaty applying to only one part of the Empire it should be stated to be made by the King on behalf of that part.

The making of the treaty in the name of the King as the symbol of the special relationship between the different parts of the Empire will render superfluous the inclusion of any provision that its terms must not be regarded as regulating *inter se* the rights and obligations of the various territories on behalf of which it has been signed in the name of the King. In this connexion it must be borne in mind that the question was discussed at the Arms Traffic Conference in 1925, and that the Legal Committee of that Conference laid it down that the principle to which the foregoing sentence gives expression underlies all international conventions.

In the case of some international agreements the Governments of different parts of the Empire may be willing to apply between themselves some of the provisions as an administrative measure. In this case they should state the extent to which, and the terms on which, such provisions are to apply. Where international agreements are to be applied between the different parts of the Empire, the form of a treaty between Heads of States should be avoided.

Full Powers.

The plenipotentiaries for the various British units should have Full Powers issued in each case by the King on the advice of the Government concerned, indicating and corresponding to the part of the Empire for which they are to sign. It will frequently be found convenient, particularly where there are some parts of the Empire on which it is not contemplated that active obligations will be imposed, but where the position of the British subjects belonging to

these parts will be affected, for such Government to advise the issue of Full Powers on their behalf to the plenipotentiary appointed to act on behalf of the Government or Governments mainly concerned. In other cases provision might be made for accession by other parts of the Empire at a later date.

Signature.

In the cases where the names of countries are appended to the signatures in a treaty, the different parts of the Empire should be designated in the same manner as is proposed in regard to the list of plenipotentiaries in the preamble to the treaty. The signatures of the plenipotentiaries of the various parts of the Empire should be grouped together in the same order as is proposed above.

The signature of a treaty on behalf of a part of the Empire should cover territories for which a mandate has been given to that part of the Empire, unless the contrary is stated at the time of the signature.

Coming into Force of Multilateral Treaties.

In general, treaties contain a ratification clause and a provision that the treaty will come into force on the deposit of a certain number of ratifications. The question has sometimes arisen in connexion with treaties negotiated under the auspices of the League whether, for the purpose of making up the number of ratifications necessary to bring the treaty into force, ratifications on behalf of different parts of the Empire which are separate Members of the League should be counted as separate ratifications. In order to avoid any difficulties in future, it is recommended that, when it is thought necessary that a treaty should contain a clause of this character, it should take the form of a provision that the treaty should come into force when it has been ratified on behalf of so many separate Members of the League.¹

PRACTICE IN REGARD TO THE NEGOTIATION AND RATIFICATION OF TREATIES IN THE SEVERAL DOMINIONS

The following accounts of treaty-making procedure have the approval of competent authorities in the Dominions concerned. In the cases of Australia, South Africa, the Irish Free State, and New Zealand, the accounts are taken from *Treaty-making Procedure*, compiled by Ralph Arnold and published under the auspices of the Royal Institute of

¹ *Cmd. 2768*, pp. 22-4.

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International Affairs,¹ the accounts of procedure in Australia and the Irish Free State having the official sanction of the government departments concerned.

CANADA

1. All treaties and conventions between heads of States concluded by the Dominion of Canada with foreign Powers (other than agreements of a technical or administrative nature made between Governments) are made in the name of the King and, when concluded, ratification is effected by the King.

2. The negotiation of such a treaty or convention falls on His Majesty's Government in the Dominion of Canada. The Government, in order to carry out such negotiations, nominates a Plenipotentiary. A Canadian Order in Council is passed advising His Majesty to issue full powers to the Plenipotentiary so named. His Majesty then issues the full powers under the Great Seal.

3. Such a treaty or convention is then signed by the Canadian Plenipotentiary on behalf of Canada.

4. Following signature, a Resolution is adopted by the Canadian Parliament approving the Treaty or Convention. (Certain treaties and conventions need not be submitted to Parliament.) A Canadian Order in Council is passed advising His Majesty to ratify on behalf of Canada. Ratification is by an Instrument under the Great Seal of the United Kingdom, now termed the Great Seal of the Realm, issued by His Majesty's Government.

5. Legislation (if necessary) is enacted by the Federal Parliament for the purpose of implementing the Treaty.

6. In practice, the necessary documents are prepared by the Foreign Office in London at the request of the Canadian Secretary of State for External Affairs, and the approach to His Majesty is through the British Secretary of State for the Dominions. The warrant for the use of

¹ Arnold (Ralph): *Treaty-making Procedure: A Comparative Study of the Methods obtaining in Different States*, with an Introductory Note by Dr. Arnold D. McNair on 'Constitutional Limitations upon the Treaty-making Power'.

the Great Seal recites: 'The Ratification (or issuance of Full Powers) is at the request of and upon the advice of the Canadian Secretary of State for External Affairs.'

AUSTRALIA

1. All treaties and conventions between heads of States concluded by the Commonwealth of Australia with foreign Powers (other than agreements of a technical or administrative nature made between Governments) are made in the name of the King and, when concluded, ratification is effected by the King.

2. The actual negotiation of bilateral agreements between Australia and a foreign Power falls upon His Majesty's Government in the Commonwealth of Australia; the Government, in order to carry out such negotiations, nominating a Plenipotentiary to whom the King, on the advice of the Commonwealth Government, issues full powers. (Such plenipotentiaries may be Australian Ministers, special delegates, or British diplomats acting on the request of Australia.)

3. The negotiation of such an agreement by His Majesty's Government in the Commonwealth of Australia is subject to certain conditions (commonly imposed on all Dominion Governments and formulated at the Conference of 1926, and summarized by the 1930 Conference).

i. Any of His Majesty's Governments conducting negotiations should inform the other Governments of His Majesty in case they should be interested, and give them the opportunity of expressing their views, if they think that their interests may be affected.

ii. Any of His Majesty's Governments on receiving such information should, if it desires to express any views, do so with reasonable promptitude.

iii. None of His Majesty's Governments can take any steps which might involve the other Governments of His Majesty in any active obligations without their definite consent.

4. As for the signature of bilateral conventions or

treaties concluded between the Commonwealth of Australia and foreign Powers (i.e. agreements imposing obligations on Australia alone), such treaties, made in the name of the King, must be signed by a representative of the Commonwealth Government, the full power being issued to such a representative at the instance of the Governor-General in Council.

5. As regards bilateral treaties which impose obligations on parts of the Empire otherwise than on Australia solely, the treaty must be signed by one or more plenipotentiaries on behalf of each of the Governments concerned.

6. As regards multilateral treaties (the outcome generally of International Conferences), such agreements are signed by plenipotentiaries on behalf of each of the Governments of the Empire represented at the Conference, invested with full powers.

7. The ratification of conventions and treaties concluded between the Commonwealth of Australia and foreign Powers is effected by the King on the expressed desire of the Commonwealth of Australia.

8. The procedure outlined above, however, is modified in the case of agreements concluded between His Majesty's Government in the Commonwealth of Australia and foreign Governments mainly on technical or administrative matters.

- i. The Conference of 1923 recognized the right of Australia (and of the other Dominions) to conclude such agreements with foreign Governments. (Resolution IX.)
- ii. Such inter-governmental agreements are not concluded under full powers and are not ratified by the King.
- iii. They must, however, be registered under Article 18 of the League Covenant.

NEW ZEALAND

1. All treaties and conventions between heads of States concluded by the Dominion of New Zealand with foreign Powers (other than agreements of a technical or adminis-

trative nature made between Governments) are made in the name of the King and, when concluded, ratification is effected by the King.

2. The actual negotiation of bilateral agreements between New Zealand and a foreign Power falls upon His Majesty's Government in the Dominion of New Zealand; the Government, in order to carry out such negotiations, nominating a Plenipotentiary to whom the King, on the advice of the Dominion Government, issues full powers. (Such plenipotentiaries may be New Zealand Ministers, special delegates, or British diplomats acting on the request of New Zealand.)

3. The negotiation of such an agreement by His Majesty's Government in the Dominion of New Zealand is subject to certain conditions (commonly binding on all Dominion Governments, formulated at the Conference of 1926, and summarized by the 1930 Conference).

- i. Any of His Majesty's Governments conducting negotiations should inform the other Governments of His Majesty in case they should be interested, and give them the opportunity of expressing their views, if they think that their interests may be affected.
- ii. Any of His Majesty's Governments on receiving such information should, if it desires to express any views, do so with reasonable promptitude.
- iii. None of His Majesty's Governments can take any steps which might involve the other Governments of His Majesty in any active obligations without their definite consent.

4. As for the signature of bilateral conventions or treaties concluded between the Dominion of New Zealand and foreign Powers (i.e. agreements binding on New Zealand alone), such treaties, made in the name of the King, must be signed by a representative of the Dominion Government, the full power being issued to such a representative at the instance of the Governor-General in Council.

5. As regards bilateral treaties binding on parts of the

Empire otherwise than on New Zealand solely, the treaty must be signed by one or more plenipotentiaries on behalf of each of the Governments concerned.

6. As regards multilateral treaties (the outcome generally of International Conferences), such agreements are signed by plenipotentiaries on behalf of each of the Governments of the Empire represented at the Conference, invested with full powers.

7. The ratification of conventions and treaties concluded between the Dominion of New Zealand and foreign Powers is effected by the King on the expressed desire of the Dominion of New Zealand.

8. The procedure outlined above, however, is modified in the case of agreements concluded between His Majesty's Government in the Dominion of New Zealand and foreign Governments mainly on technical or administrative matters.

- i. The Conference of 1923 recognized the right of New Zealand (and of the other Dominions) to conclude such agreements with foreign Governments. (Resolution IX.)
- ii. Such inter-governmental agreements are not concluded under full powers and are not ratified by the King.
- iii. They must, however, be registered under Article 18 of the League Covenant.

9. Thus, in other words, all treaties and conventions concluded with foreign Powers (other than technical and administrative agreements made between governments) are made in the name of the King, and the King effects ratification of the same, but all such agreements are negotiated and signed by a representative of the Dominion Government, ratification being effected by the King only at the request of the Dominion Government.

SOUTH AFRICA

1. In order to regularize the procedure of consultation it has been agreed between the Members of the British Commonwealth of Nations to inform each other of their negotiations with any foreign Government so that any

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of His Majesty's Governments which feels that it is likely to be interested in negotiations conducted by another of His Majesty's Governments may have the opportunity of expressing its views thereon.

2. The object of such consultation is to enable the other members to make suitable representations to the negotiating member in case its proposed policy might tend to affect their interests detrimentally.

3. A member of the British Commonwealth in negotiating an international agreement cannot take any steps which might involve other members in any active obligations without their definite consent nor affect detrimentally the rights of subjects of His Majesty belonging to another part.

4. As regards the form of international agreement a distinction must be made between treaties proper, i.e. agreements between heads of States, and agreements in a different form. It has been agreed at the Imperial Conference of 1926 that the form of a treaty proper should be adopted whenever, in case of multilateral international agreements to which several parts of the Commonwealth are parties, it was intended that the provisions of the treaty should not regulate the relations of the members of the Commonwealth *inter se*, and that in the case of international agreements which the members of the Commonwealth would be prepared to apply as between themselves the form of a treaty proper should be avoided.

5. Apart from the cases dealt with in the preceding paragraphs there are no definite rules as to the form in which an international agreement should be couched. It might take the form of an agreement between States as distinct from heads of States, or between Governments. Act 36 of 1925 also provides for the possibility of the Governor-General concluding an agreement with any member of the British Commonwealth or any foreign State for the granting of customs concessions or most-favoured-nation treatment in customs matters.

6. The question whether one form is to be adopted in preference to another is, in so far as this has not been

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settled by agreement or statute, a matter of expedience and of the relative importance of the Convention.

7. As regards full powers, in the case of treaties between heads of States they are issued by the King, on the advice of His Majesty's South African Ministers. In the case of Government agreements the full powers are issued by the Governor-General in Council. In the case of agreements between States the customary procedure is for His Majesty to issue full powers.

In the case of an agreement being entered into by the Governor-General under Act 36 of 1925 the full powers would be issued by the Governor-General in Council.

8. The procedure followed in the ratification of any international agreement varies with the form adopted in its conclusion. Treaties proper, i.e. agreements between heads of States, would be ratified by His Majesty. So would agreements between States. Agreements entered into between Governments or by the Governor-General would be ratified by the Governor-General or some Minister of the Crown authorized thereto by the Governor-General in Council.

The system of communicating to each other proposed agreements and of keeping each other informed of the progress of negotiations provides each member with the opportunity of laying its views before the negotiating member so that it may be assumed that any objections on the part of any member against the policy suggested by the negotiating member would have received due consideration before a final stage is reached.

IRISH FREE STATE

1. Treaties and conventions concluded by the Irish Free State with foreign Powers are made either in the form of an agreement between heads of States or in the form of an agreement between Governments. All treaties and conventions, except those of a purely technical or administrative nature, are at present submitted to both Houses of the Oireachtas for approval before they are ratified.

2. The actual negotiation of all agreements between the Irish Free State and other Powers is the sole and exclusive function of His Majesty's Government in the Irish Free State.

3. Conventions or treaties concluded between the Irish Free State and foreign Powers and made in the form of an agreement between heads of States, are signed by a representative of the Government of the Irish Free State under full powers issued by the King on the advice of the Irish Government. The full power issued to such a representative indicates the particular Member of the Commonwealth in respect of which the obligations are to be undertaken, and the preamble and text of the treaty are so worded as to make its scope clear. 'Heads of States' treaties and conventions when concluded are approved by both Houses of the Oireachtas and ratified by the King on the advice of the Irish Government.

4. The full power issued by the King to a plenipotentiary of the Irish Free State on the advice of the Government of the Irish Free State to negotiate and sign a 'Heads of States' treaty or convention is sealed with the Great Seal of the Irish Free State, and the Instrument of ratification of such a treaty or convention is sealed with the same Great Seal. The Great Seal of the Irish Free State was struck early in the year 1932 by the Government of the Irish Free State. It remains in their custody and is released on their exclusive authority.

5. In the case of inter-governmental agreements between the Government of the Irish Free State and other Governments, full powers are not issued by the King, nor is ratification expressed in his name. The authority to sign such agreements is conferred by a power signed and sealed by the Minister for External Affairs, and, following parliamentary approval, ratification is expressed by means of a document under the hand and seal of the same Minister.

6. International Labour Conventions are approved by both Houses of the Oireachtas and ratified by means of an Order of the Executive Council under their Seal.

**3. LIST OF PRINCIPAL POST-WAR TREATIES
BINDING ON ALL MEMBERS OF THE BRITISH
COMMONWEALTH¹**

I. *The Peace Treaties.*

- a. TREATY OF PEACE between the Allied and Associated Powers and Germany: signed at Versailles, 28th June, 1919.
- b. TREATY OF PEACE between the Allied and Associated Powers and Austria: signed at St. Germain-en-Laye, 10th September, 1919.
- c. TREATY OF PEACE between the Allied and Associated Powers and Bulgaria and Protocol and Declaration: signed at Neuilly-sur-Seine, 27th November, 1919.
- d. TREATY OF PEACE between the Allied and Associated Powers and Hungary and Protocol and Declaration: signed at Trianon, 4th June, 1920.
- e. TREATY OF PEACE between the Allied and Associated Powers and Turkey: signed at Sèvres, 10th August, 1920.²

These Treaties of Peace were signed both generally for the Empire by the British Plenipotentiaries and specifically for the four Dominions and for India by their own Representatives, to each of whom full powers to sign for and in the name of His Majesty the King in respect of the appropriate Dominion had been granted. Ratification was expressed only after the Dominion Parliaments had been accorded the power to discuss and approve their contents.³

f. THE LEAGUE COVENANT.

Canada, Australia, South Africa, New Zealand, and India (in anticipation of its ultimate attainment of Dominion status) were admitted to the League of Nations and were accorded the status of independent States. The Irish Free State was subsequently admitted on the same terms

¹ Excluding general International Conventions of a technical character, such as Aerial Navigation, Universal Postal Union, &c.

² Did not come into force, being replaced by Lausanne Treaties (1923).

³ See Representation at International Conferences, p. 123, above.

in 1923. Thus the Dominions accepted all the obligations involved in membership of the League. At the Imperial Conference of 1926, however, it was decided that the relations of the parts of the Empire are not governed by the Terms of the Covenant.¹

II. *The Washington Agreements.*

- a. TREATY between the United States of America, the British Empire, Italy, and Japan for the limitation of Naval Armament: signed at Washington, 6th February, 1922.
- b. TREATY between the United States of America, the British Empire, France, Italy, and Japan for the protection of the lives of neutrals and non-combatants at sea in time of war and to prevent the use in war of noxious gases and chemicals: signed at Washington, 6th February, 1922.
- c. TREATY between the United States of America, the British Empire, France, and Japan relating to their Insular Possessions and Insular Dominions in the Pacific Ocean: signed at Washington, 13th December, 1921.
- d. TREATY between the United States of America, the British Empire, China, France, Italy, Japan, the Netherlands, and Portugal relating to principles and policies to be followed in matters concerning China: signed at Washington, 6th February, 1922.

All the above treaties resulted from the discussions held at the Washington Conference on the Limitation of Armaments. To this Conference, no distinct invitations were addressed to the Dominions as such and it was, in consequence, attended by a British Empire Delegation, made up of representatives from different parts of the Empire. From the personnel of this British Delegation, however, distinct representatives for the Dominions were appointed who acted *nominatim* for them, separate full powers being issued to these Dominion Representatives. Hence the above treaties were signed by the Dominions Re-

¹ See pp. 128 and 139, above.

sentatives and by the Representative of India, as well as generally for the Empire by the British Plenipotentiary.¹

III. *Treaty of Peace with Turkey*, 1923 (and the Convention respecting the Régime of the Straits and other instruments: signed at Lausanne, 24th July, 1923).

The Treaty of Peace with Turkey was signed generally for the Empire by the two British Plenipotentiaries. Distinct Representatives for the Dominions did not sign the Treaty, nor were the Dominions specifically represented at the Lausanne Conference. The Canadian Government refused to take any responsibility as to the ratification of the Treaty, stating that they would not take exception to such course as His Majesty's Government might deem it advisable to recommend. The Governments of the other Dominions ratified the Treaty, the Irish Free State stipulating, however, that no active obligation was thereby undertaken and making it clear that the Free State was mainly concerned to have the state of war existing between the Empire and Turkey terminated.²

IV. *Reparations Agreements*, 1924.

- a. Agreement between the Allied Governments and the German Government concerning the Agreement of 9th August, 1924, between the German Government and the Reparations Commission: signed at London, 30th August, 1924.
- b. Agreement between the Allied Governments and Germany: signed at London, 30th August, 1924.
- c. Inter-Allied Agreements: signed at London, 30th August, 1924.

These Agreements were arrived at as a result of the proceedings of the London Reparations Conference of July and August, 1924. The Dominions were not invited to be directly represented at this Conference. It was later

¹ For these and other points respecting the Washington Conference, see p. 128, above.

² See p. 130, above.

arranged, however, that the Representatives of any of the Dominions so desiring, and of India, should become members of the British Empire Delegation at the Conference on the panel system. Accordingly Representatives of the four Overseas Dominions and of India received separately issued 'full powers' for the Conference. The Irish Free State was not separately represented, the reason being that the subject-matter of the London Conference did not specially concern the Free State. The Dominion Representatives who enjoyed 'full powers' naturally secured the right of full signature in the case of the above Agreements.¹

V. *The Locarno Agreements, 1925.*

Treaty of Mutual Guarantee between the United Kingdom, Belgium, France, Germany, and Italy: signed at Locarno, 16th October, 1925.

Great Britain accepted sole responsibility for the guarantee given at Locarno. The Dominions were not represented at the Locarno negotiations nor did they sign the resultant Treaty, Clause 9 of which ran as follows:

The present Treaty shall impose no obligation upon any of the British Dominions, or upon India, unless the Government of such Dominion, or of India, signifies its acceptance thereof.²

The Imperial Conference of 1926 met just after the ratification of the Locarno Treaty. Its significance was discussed by the Balfour Committee, which reported that following such discussion it became clear that, from the standpoint of all the Dominions and India, there was complete approval of the manner in which the negotiations had been conducted and brought to so successful a conclusion. The final and unanimous conclusion of the Committee was to recommend to the Conference the adoption of the following Resolution:

The Conference has heard with satisfaction the statement of the Secretary of State for Foreign Affairs with regard to the efforts

¹ For these and other particulars, see p. 132 *et seq.*, above.

² *Cmd. 2764*, p. 9, given also in Keith (A. Berriedale): *Speeches and Documents, 1918-31*, p. 356.

made to ensure peace in Europe, culminating in the agreements of Locarno; and congratulates His Majesty's Government in Great Britain on its share in this successful contribution towards the promotion of the peace of the world.¹

This resolution was adopted by the Conference.

VI. Chemical Warfare Protocol, 1925.

In the course of the Conference for the Control of the International Trade in Arms, which met at Geneva from 4th May to 17th June, 1925, a special Protocol was adopted relative to the use of poison gases and bacteriological devices in warfare. This Protocol is now in force in Australia, Canada, India, the Irish Free State, New Zealand, and South Africa, all of which either signed and ratified or acceded to this Protocol.

VII. The Conference for the Limitation of Naval Armaments, Geneva, 1927.

No agreement was reached as a result of the Conference for the Limitation of Naval Armament held at Geneva from 20th June to 4th August, 1927. It is interesting to note, however, that to this Conference each part of the Empire represented was specially invited and was represented by a special delegation.²

VIII. The Briand-Kellogg Pact, 1928.

The proposal for the Treaty for the Renunciation of War came from the United States of America. Sir Austen Chamberlain, in his Note of 19th May, 1928, stated that the proposed treaty, from its very nature, is not one which concerns His Majesty's Government in Great Britain alone, but it is one in which they could not hope to participate otherwise than jointly and simultaneously with His Majesty's Governments in the Dominions and with the Government of India.³

The United States accordingly addressed requests for participation direct to the Canadian and Irish Govern-

¹ Imperial Conference, 1926: *Summary of Proceedings*, Cmd. 2768, pp. 28-9. And see p. 134, above.

² See p. 135, above.

³ Cmd. 3109, p. 26.

ments with which they had direct diplomatic relations and through the Imperial Government to the other Dominions. The Treaty was concluded in the name of the King Emperor and signed separately by Plenipotentiaries for the Dominions and India. The Treaty was ratified simultaneously by the King for all parts of the Empire after advice to this effect had been tendered by all the Dominions and India, as well as by the British Government.¹ It should be noted, however, that the Dominions made it clear that they were not identified with the reservations tendered by the British Government.

IX. The Optional Clause of the Statute of the Permanent Court of International Justice.

The signature of the Optional Clause in September, 1929, by the United Kingdom, Canada, Australia, New Zealand, South Africa, and the Irish Free State, may be said to have marked a further step in the acceptance of common principles for the conduct of foreign policy between the United Kingdom and the Dominions.

At the Imperial Conference of 1926 it was agreed by the representatives of His Majesty's Governments there present that

a general understanding was reached that none of the Governments represented at the Imperial Conference would take any action in the direction of the acceptance of the compulsory jurisdiction of the Permanent Court without bringing up the matter for further discussion.²

On the 7th May, 1929, the Canadian Prime Minister, Mr. Mackenzie King, announced in the House of Commons in Ottawa that his Government was prepared to sign the Optional Clause, though not without a previous conference with the other Members of the British Commonwealth of Nations.

As a result of discussions which took place between the Representatives of the United Kingdom and of the Dominions and India who were present at Geneva for the Tenth

¹ See p. 136, above.

² *Cmd. 2768*, p. 28.

Assembly of the League of Nations in September, 1929, it was decided to sign the Clause, subject, except in the case of the Irish Free State, to certain reservations.

The declaration of acceptance by the United Kingdom was accordingly signed on 19th September, 1929, and followed the usual practice in being subject to reciprocity and in including a time-limit of ten years (the acceptance to continue in force after the expiration of that period unless notice were given to terminate it), but excluded from its operation three classes of disputes, the second and third of which concerned

Disputes with the Government of any other Member of the League which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree.

Disputes with regard to questions which, by international law, fall exclusively within the jurisdiction of the United Kingdom.

As independent Members of the League the Dominion Representatives signed the Clause independently, though the same formula for the instrument of accession as was used by the United Kingdom was employed by Canada, Australia, New Zealand, South Africa, and India. The Representatives of both South Africa and Canada added further observations to the first clause quoted above, that of South Africa being that

with regard to the reservation as to disputes between Members of the British Commonwealth of Nations, I wish to state that although, in the view of my Government, such disputes are justiciable by the International Court of Justice, my Government prefers to settle them by other means—hence the reservation;

while Canada explained that inter-Imperial disputes were excluded solely because it was ‘the expressed policy’ of Canada ‘to settle these matters by some other method’ and it had ‘deemed opportune to include its will as a reservation, although a doubt may exist as to such reservation being consistent with Article 36 of the Statute of the Court’.

- The Representative of the Irish Free State had signed

previously on 14th September, making the following declaration:

On behalf of the Irish Free State, I declare that I accept as compulsory *ipso facto* and without special convention the jurisdiction of the Court in uniformity with Article 36 of the Permanent Court of International Justice for a period of twenty years and on the sole condition of reciprocity.

X. The General Act for the Pacific Settlement of International Disputes, 1928.

Accession to the General Act was discussed at the Imperial Conference of 1930. The question was examined in all its aspects and the Conference approved the general principles underlying the Act. The Representatives of the United Kingdom, Canada, Australia, New Zealand, the Irish Free State, and India intimated that it was proposed to commend the General Act to the appropriate authority with a view to accession on conditions mainly similar to those attached to their respective acceptances of the Optional Clause, in particular, subject to the reservation regarding 'questions which by international law are solely within the domestic jurisdiction of States'. The Representative of the Union of South Africa intimated that his Government was not opposed to the principles of the Act, but that it would require further examination before a final decision could be reached.¹ Accordingly the United Kingdom, Australia, New Zealand, and India, subject to certain uniform conditions, acceded on 21st May, 1931; Canada, under the same conditions, on 1st July, 1931. The Irish Free State acceded unconditionally on 26th September following.

XI. The Hague Agreements, 1929 and 1930.

- a. PROTOCOL, with Annexes, approved at the Plenary Session of The Hague Conference held on 31st August, 1929.
- b. AGREEMENTS concluded at The Hague Conference, January, 1930.

¹ The Union Government ultimately decided not to accede to the General Act.

The Representatives of Germany, Belgium, France, Great Britain, Italy, and Japan met at Geneva in September, 1928, and came to an agreement on certain points concerning the opening of negotiations on the subject of the early evacuation of the Rhineland, the necessity for a complete and final settlement of the question of Reparations and the constitution of a Committee of Financial Experts. This Committee having met and having reported on 7th June, 1929, it was decided as an outcome of their Report that the Governments of Greece, Portugal, Poland, Roumania, Czechoslovakia, and Yugoslavia, as well as the Governments of Canada, Australia, New Zealand, South Africa, and India were also concerned in their conclusions and should be invited to take part in the negotiations and agreements affecting them.

Thus the Dominion Governments received distinct invitations to participate in the two Hague Conferences and were represented there by their own delegations, and their plenipotentiaries signed the Agreements resulting from them.

XII. *Treaty for the Limitation and Reduction of Naval Armaments, London, 1930.*

The Conference for Naval Limitation and Reduction which opened in London on 21st January, 1930, was a direct outcome of the 1921-2 Washington Naval Conference. It will be remembered that, at the Washington Conference, the Dominion Governments did not receive separate invitations to attend. Practice, however, had in the meantime remedied this position and, at the London Conference, the Dominions were all separately represented. The London Naval Treaty, which was the outcome of the Conference, was signed by the Representatives for Great Britain and Northern Ireland and all parts of the British Empire which are not separate Members of the League of Nations, and by Representatives for Canada, Australia, New Zealand, South Africa, the Irish Free State, and India.

XIII. *The Lausanne Reparations Agreement, 1932.*

In July, 1932, representatives of the Powers who had signed the Hague Agreements in 1929 and 1930¹ met in conference at Lausanne to make a final settlement of the question of Reparations. Thus the Dominion Governments (with the exception of the Irish Free State²) were again separately invited and represented by their own plenipotentiaries who signed the resulting Agreement.

4. THE INTERNATIONAL STATUS OF INDIA

The following notes on the international status of India are mainly taken from Part II of the Memoranda submitted by the Government of India and the India Office to the Indian Statutory Commission in 1929 and published as 70-240-5.

INDIA AND THE PEACE CONFERENCE

When at the Paris Peace Conference special representation was given to the four chief Dominions in the British Empire Delegation, the same treatment was accorded to India. Thus it came about that plenipotentiaries holding full powers in respect of India (although the Secretary of State himself was their leader) took part in the discussions at Paris and signed the Treaty of Versailles and the other Peace Treaties (except Lausanne). India was treated formally in all respects on the same footing as the Dominions.³

INDIA AND THE LEAGUE OF NATIONS

When at the Paris Peace Conference plenipotentiaries holding full powers on behalf of India signed the Treaty of Versailles, India thereby became an original Member of the League of Nations and was thus for the first time brought into direct and formal contact with the outside world as a separate entity. The situation thus created was highly anomalous and one impossible to harmonize with the constitutional position as defined in the Government of India Act. The anomaly is evident. On the one hand, as the powers of superintendence, direction, and control, vested by the Act in the Secretary of State, still extend to the most important affairs of government in India even in the internal sphere, these powers

¹ See section XI, p. 158, above. ² See section IV, p. 153, above.

³ *Indian Statutory Commission*, vol. v, p. 1634, para. 7.

extend *a fortiori* to all matters affecting her external relations, and occasions for their exercise are more likely to arise in the external than in the internal spheres. The existence of these powers would, therefore, seem to preclude the idea of a separate international status for India. On the other hand, by being placed on an equality with the Self-governing Dominions at Versailles and in the League of Nations, India has been treated as if she had attained to the same kind of separate nationhood as that now enjoyed by those Dominions.¹

It has been the deliberate object of the Secretary of State to make India's new status a reality for practical purposes within the widest possible limits. It was not open to him to relinquish his constitutional power of control, nor, consistently with his responsibility to Parliament, could he delegate it to a subordinate authority, but it has been his constant endeavour to restrict its exercise to a minimum, to keep even its existence so far as possible in the background, and to allow the Indian Government the greatest possible freedom of action under the influence of their Legislature and of public opinion.²

This has enabled India to pursue an independent line of action within very wide limits, even to the extent of bringing her into conflict with His Majesty's Government. In such cases, the Secretary of State acts, if he acts at all, as head of the Government of India rather than as a member of His Majesty's Government. Constitutionally the Secretary of State is the ultimate authority for appointing and instructing India's representatives at the League Assembly and international conferences,

but the unqualified and ostensible exercise of this authority would at once destroy the quasi-independent character of India's representation. This difficulty has been met, so far as possible, by the establishment of a *modus vivendi* on the basis that, in making appointments and giving instructions, the Secretary of State and the Government in India act jointly in consultation and agreement with each other.³

India is an original Member of the League named in the Annex to the Covenant, but she is the only Member who is not self-governing.

¹ Ibid., vol. v, p. 1632, para. 1. ² Ibid., vol. v, p. 1632, para. 2.

³ Ibid., vol. v, p. 1633, paras. 3 and 4.

INDIAN REPRESENTATION AT INTERNATIONAL CONFERENCES

i. *Control of Secretary of State.*

In connection with Imperial and International Conferences held in Europe the normal roles of the Government in India and the Secretary of State are to some extent reversed; the latter is the 'man on the spot' and the former is remote from the scene of action. Consequently, while the Government in India are invariably consulted and usually take the initiative in making proposals, they are nearly always ready to defer to the judgment of the Secretary of State and to accept any advice or suggestion which he may make before the final arrangements are decided. In these circumstances differences of opinion between the two authorities are rare, and when they arise are capable of easy adjustment.¹

ii. *Responsibility for India's Delegates.*

Soon after the Peace Conference it was realized that 'it would be difficult to find a satisfactory solution of the problem whether India's delegates should be formally regarded as delegates of the Government in India or as dependent directly on the Secretary of State'.

The principles adopted as a solution of this problem have been:

1. That a formal decision to the effect that either the Secretary of State or the Government in India is the proper authority in Imperial and international questions should be avoided;
2. that it should be tacitly recognized that the Secretary of State is, as a fact, responsible for the representation of India in those questions; but
3. that the appointments and instructions should be subject to prior consultation and agreement between the Government in India and the Secretary of State; and
4. that reports should be addressed according to circumstances.²

iii. *Instructions to Delegates.*

Briefs for the delegates to the League of Nations Assembly, where the subjects on the agenda are usually of a wide and general nature, are normally prepared in the India Office, on materials supplied by the Government in India when necessary, and instructions, when required, are given by the Secretary of State direct, after consultation with the Government in India.

¹ Ibid., vol. v, p. 1643, para. 21. ² Ibid., vol. v, p. 1644, para. 22.

Instructions for other conferences also are sometimes prepared in the India Office; when this is done the Secretary of State consults the Government in India beforehand, so far as is possible; it may not be necessary to do so when the brief is based on material already supplied by the Government in India or when the Secretary of State already knows and agrees with their policy.

Usually, however, instructions are prepared by the Government in India; but they are submitted in draft to the Secretary of State for his approval, except in the case of certain classes of technical conferences in which India participated even before the War. This procedure has now been definitely laid down in a despatch from the Secretary of State of 1926, which was readily accepted by the Government in India.¹

TREATY-SIGNING POWERS

India 'shares with the Dominions (theoretically at all events) in the separate treaty-signing powers which they enjoy in regard to all treaties generally, and which are defined by the resolutions of the Imperial Conferences of 1923 and 1926'.²

¹ *Ibid.*, vol. v, p. 1646, para. 25. ² *Ibid.*, vol. v, p. 1634, para. 7.

PART III

OFFICIAL INTER-IMPERIAL BODIES

A NUMBER of inter-Imperial bodies have been established from time to time for the purposes of inter-Imperial co-operation in particular spheres. The functions of the majority of these lie either directly or indirectly in the economic sphere; and all such bodies were recently reviewed by a special Imperial Committee set up as a result of the Ottawa Conference. The terms of reference of the Committee were

to consider the means of facilitating economic consultation and co-operation between the several Governments of the Commonwealth, including a survey of the functions, organization, and financial bases of the (existing) agencies . . . and an examination of what alterations, or modifications, if any, in the existing machinery for such co-operation within the Commonwealth are desirable.

In assenting to the Conference Resolution appointing this Committee, the South African and Irish Free State delegations made the following reservations¹ respectively:

[Mr. Havenga]: While not wishing to object to the acceptance of the report of the Committee on Methods of Economic Co-operation, I desire, in order to remove any ground for misapprehension, to record the following reservations on behalf of the Union of South Africa:

(1) While not generally adverse to the institution of *ad hoc* bodies for economic investigation and preparation, the Union Government will not associate itself with any scheme for the erection of any organization in the nature of a permanent secretariat or preparatory committee to Commonwealth Conferences, whether economic or otherwise.

(2) That portion of the report which introduces the draft resolutions relating to the appointment of a Committee to consider the means of facilitating economic consultation and co-operation must not be read in the sense that the Union Government is committed in principle to give financial support to Commonwealth economic organizations.

[Mr. Lemass]: I do not object to the adoption of this report

¹ Imperial Economic Conference at Ottawa, 1932: *Proceedings*, Cmd. 4717, pp. 14-15.

and the accompanying resolutions, but I wish it to be made perfectly clear in the published records of the Conference that the Government of the Irish Free State are not prepared to contemplate the setting up of an Imperial Economic Secretariat or of any similar organ of centralization.

This Committee sat in London in February, March, and April, 1933, under the chairmanship of Dr. O. D. Skelton, and published its Report¹ in June.

A summary mainly derived from its review of existing Imperial economic bodies and from its conclusions as to the means of facilitating economic co-operation will be found in Sections 1 and 2 below.²

In addition to these bodies, there are a number of other co-operative and inter-Imperial agencies for other than economic purposes, a brief review of which will be found in Section 3.³

1. SURVEY OF THE FUNCTIONS, ORGANIZATION, AND FINANCIAL BASES OF EXISTING IMPERIAL AGENCIES FOR ECONOMIC CO-OPERATION⁴

The Imperial Committee on Economic Consultation and Co-operation reviewed all the existing agencies for inter-Imperial economic co-operation, and classified them as follows according to their main purpose:

- a. Bodies, the main function of which is the dissemination of information:

Executive Council of the Imperial Agricultural Bureaux.

Imperial Institute of Entomology.

Imperial Mycological Institute.

Bureau of Hygiene and Tropical Diseases.

Imperial Forestry Institute.

Standing Committee on Empire Forestry.

Imperial Institute.

¹ Imperial Committee on Economic Consultation and Co-operation: *Report*, Cmd. 4335. ² pp. 165 and 192 respectively. ³ p. 199, below.

⁴ The information contained in this section is derived mainly, but not entirely, from the *Report of the Imperial Committee on Economic Consultation and Co-operation*, Cmd. 4335, pp. 12-61.

- b. Bodies engaged on *ad hoc* investigations:
 - Oversea Mechanical Transport Council.
 - Empire Timbers Committee.
- c. Specialist Advisory Bodies:
 - Imperial Shipping Committee.
 - Imperial Communications Advisory Committee.
- d. Bodies for the improvement of marketing conditions:
 - Imperial Economic Committee.
 - Empire Marketing Board.

**THE EXECUTIVE COUNCIL OF THE IMPERIAL AGRICULTURAL
BUREAUX (2 Queen Anne's Gate Buildings, West-
minster, S.W. 1)**

Composition.

The Executive Council of the Imperial Agricultural Bureaux is an inter-Imperial body set up in 1929, charged with the supervision of the eight Imperial agricultural bureaux which disseminate information regarding agricultural science. It consists of nine members, directly appointed by the several Governments, one each by the Governments of the United Kingdom, the several Dominions and India, and one nominated by the Secretary of State for the Colonies.

Functions and Finance.

The functions of the Council are mainly administrative and financial. The annual income is derived from contributions agreed among the several Governments and amounts in all (1934) to £21,800.

Constitutional Position and Organization.

The Council is financially autonomous. It elects its own Chairman and Vice-Chairman and appoints its own Secretary and officers. It is responsible to no one Minister of any one Government. Communications with Governments are made through the members representing those Governments. With the consent of H.M. Treasury in the United Kingdom the Comptroller and Auditor-General

has agreed to audit the accounts of the Council and his statement of the accounts is submitted annually to all Governments.

The Bureaux act as clearing-houses of information on research in eight specialized fields of agricultural science. Each is attached to, but is not a part of, a research institute well known for its work in that branch. Each bureau abstracts information on its own subject and circulates it to research workers in that subject throughout the Empire.

IMPERIAL INSTITUTE OF ENTOMOLOGY (Cromwell Road, London, S.W. 7)

Origin.

The Institute originated out of the Entomological Research Committee formed in 1909 to deal with entomological problems in tropical Africa. Of the funds originally required, viz. £2,000 per annum, one-half was provided by the Governments of the African Dependencies concerned and the other half by the Government of the United Kingdom. In 1911 the Committee was reconstituted as the Imperial Bureau of Entomology and its function extended to cover all parts of the Empire. In 1930 it received the title of Imperial Institute of Entomology.

Constitution.

On the formation of the Bureau in 1911 its management was undertaken by the former Entomological Research Committee consisting of:

- a. Scientists.
- b. Representatives of three United Kingdom Departments.
- c. The chief entomologist in each Dominion *ex officio*.
- d. Individual members nominated by oversea Governments.

This Committee meets twice a year, the ordinary day-to-day management being undertaken by the Director.

Functions.

The Institute performs three main functions:

- i. It is a clearing-house of information regarding entomological research.
- ii. It classifies all insects of economic importance received from the Dominions and Colonies.
- iii. It supplies facilities for work in various parts of the Empire in connexion with entomological problems of local importance.

The Institute maintains a large collection of specimens and a scientific library housed at the Natural History Museum; and publishes three journals, the *Review of Applied Entomology*, the *Bulletin of Entomological Research*, and the *Zoological Record*, Part *Insecta*.

Finance.

The present income of the Institute derived from Government contributions amounts to between £11,000 and £12,000 per annum. On the present basis of assessment each Dominion subscribes whatever sum it considers appropriate or, at the present time, feels itself able to pay. As regards the Colonies, the Secretary of State has a considerable voice in determining the amount to be contributed. Small contributions are received from Egypt, Siam, and Iraq in recognition of services rendered.

Functions performed at the expense of the Empire Marketing Board.

Certain functions of the Institute have hitherto been performed at the cost of the Empire Marketing Board, which provided a grant of £4,000 per annum. Chief of these is the formation and maintenance at Farnham Royal of a laboratory which specializes in the control of insect pests to agriculture, &c., by means of beneficial parasites and predators. Since the Empire Marketing Board was wound up arrangements have been made by which the Laboratory is financed through the Executive Council of Imperial Agricultural Bureaux.¹

¹ See p. 166, above.

Miscellaneous Activities.

These include *ad hoc* investigations such as the study of specific insect pests in various parts of the Empire. Such work may be undertaken by the Institute on a repayment basis.

IMPERIAL MYCOLOGICAL INSTITUTE (Ferry Lane, Kew)

Origin and Constitution.

The Institute came into being in 1920 as the result¹ of a decision taken by the Imperial Conference of 1918. It was modelled on a plan similar to that of the Institute (then known as Bureau) of Entomology, and, like it, has since the Skelton Committee come under the supervision of the Executive Council of the Imperial Agricultural Bureaux.

Functions.

The Institute has two main functions:

- i. The collection and dissemination of information.
- ii. The identification and study of fungi of economic importance.

The first of these is performed through the publication of the *Review of Applied Mycology*, containing abstracts of all papers on mycology published in any part of the world. The second consists in the examination and classification of material received from the Dominions and Colonies and includes investigations in regard to human diseases.

¹ It is of interest to note that, whereas the Imperial Institute of Entomology originated out of the Entomological Research Committee (1909), the Imperial Mycological Institute was the first inter-Imperial body to be founded (1920) as a direct result of the recommendation of an Imperial Conference, the Executive Council of Imperial Agricultural Bureaux being later (1927) set up in the same manner.

As regards finance, however, the Imperial Mycological Institute is organized on a voluntary basis on the same lines as the Imperial Institute of Entomology. On the other hand, the Executive Council of the Imperial Agricultural Bureaux is financed on an agreed basis by the various Governments of the United Kingdom and the Dominions, this scheme of finance having been recommended by the Imperial Agricultural Research Conference of 1927, on whose recommendations the Executive Council was created.

having a fungus origin, forest mycology, fungi attacking textiles, &c. No parallel institution exists in any part of the world, and close co-operation is maintained not only with mycologists in the Empire but also with those in the United States and other foreign mycological departments.

Finance.

Finance is provided in the same manner as for the Imperial Institute of Entomology, although the amounts subscribed by the different Governments are neither the same in the two cases nor in the same proportions.

THE BUREAU OF HYGIENE AND TROPICAL DISEASES (Gower Street, London, W.C. 1)

Origin.

Established in 1908 as the 'sleeping sickness' Bureau, its functions were restricted to the collection and dissemination of information regarding trypanosomiasis. In 1912 its functions were extended to include all tropical diseases and in 1926 to include hygiene as well.

Functions and Organization.

The Bureau conducts no research, its function being solely to disseminate information. This it does through two main channels:

- i. Two-monthly publications: *The Tropical Diseases Bulletin*, and *The Bulletin of Hygiene*.
- ii. By replying to inquiries received direct.

The Bureau is managed by a committee appointed by the Secretary of State for the Colonies. Its character is mainly professional and medical, and it does not include any direct representatives of the Dominions or Colonies. Meetings are normally held three times a year. A large measure of discretion, however, is left to the Director and no annual reports are issued.

Finance.

The present income of the Bureau is about £8,000 per annum, of which £6,000 is made up of contributions

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from the various Empire Governments, and the remainder
is derived from the sale of publications.

Association with London School of Hygiene and Tropical Medicine.

The Bureau is now established at the London School of Hygiene and Tropical Medicine with which it works in close co-operation. The information service regarding hygiene, which represents more than half of the Bureau's activity, is of universal application, not being confined to the tropics.

THE IMPERIAL FORESTRY INSTITUTE (Oxford)

Origin.

The Imperial Forestry Institute was established in 1924 as a result of resolutions passed by the Empire Forestry Conferences of 1920 and 1923. It was intended to serve both Dominions and Colonies as a centre of:

- a.* higher training,
- b.* research,
- c.* refresher courses for serving forest officers,
- d.* forestry-information-collecting services.

Administration.

The Board of Management consists of eight persons, of whom one half are appointed by Oxford University, and the remainder by the departments subscribing to the Institute (viz. the Colonial Office on behalf of the subscribing Colonial Governments, and the Forestry Commission) together with a representative of the Empire Forestry Association. Of the eight members, two are expert foresters, one a scientist, and the remainder laymen. The Board normally meets three times a year and is assisted by two committees, an Education Committee, and a Finance Committee. The permanent staff consists of the Director and a number of lecturers.

Finance.

The main sources of revenue are subscriptions from the various Colonial Governments and from the Forestry Commission. A grant was given for three years from

1930 by the Empire Marketing Board in anticipation of later contributions by the Dominions, which have not, however, materialized to any substantial extent.

The Institute at present shares the buildings of the Oxford University School of Forestry. Included in its assets is, however, a building fund of £25,000 presented by the Rajah of Sarawak. The Institute is not at present a part of the University, although negotiations are in progress for its incorporation.

No fee is charged to students from parts of the Empire which subscribe to the Institute. Other students are charged a fee of £75 per annum.

THE STANDING COMMITTEE ON EMPIRE FORESTRY (9 Savile Row, London, W. 1)

Origin and Aims.

The Committee originated in a resolution of the second Empire Forestry Conference held in Canada in 1923. It is intended to serve as a link between, and to prepare agenda for, Empire Forestry Conferences, dealing with the scientific, technical, and economic aspects of the production and disposal of timber.

Composition.

The Committee consists of one representative each of the United Kingdom, of the Dominion in which the previous Conference was held, and of the Dominion in which the next Conference is to be held, together with representatives of India, the Colonies, and the Empire Forestry Association (an unofficial body representative of all parts of the Empire), and two technicians.

As the Committee is anxious that its numbers should not be substantially enlarged, it holds that it would not be feasible for each of the Dominions to be represented. If, however, the scope of the work were enlarged, it would be necessary for all the Dominions to be represented.

Functions.

The first function of the Committee is to implement resolutions passed at the previous Empire Forestry Conference. On technical matters it corresponds direct with the forest authorities in the several parts of the Empire, and on financial questions through the appropriate United Kingdom Government Department.

The second function of the Committee is to prepare agenda for the next Conference in consultation with Forestry Departments in the Dominions and Colonies, also to guide the various Empire Governments in the preparation of statistics for submission to the Conference.

Finance.

The expenses of the Standing Committee are practically nil. Incidental expenses incurred at the Conference have hitherto been defrayed by the Government in whose territory the Conference has been held.

THE IMPERIAL INSTITUTE (London, S.W. 7)*Origin and early History.*

The Imperial Institute was founded as an Imperial memorial of the Jubilee of Her Majesty Queen Victoria in 1887 to promote the commercial, industrial, and educational interests of the British Empire. A Royal Charter was granted to the Institute for the purpose in 1888 and funds amounting to £429,000 were collected by means of subscriptions from Empire Governments and private individuals for its establishment. Of this amount £140,000 was set aside as an endowment fund and the remainder spent on the erection of the existing building, which was opened by the Queen in May, 1893. Owing to a debt of £55,000 on the building, the Institute soon found itself in financial difficulties, and in 1899 the building was taken over by Her Majesty's Government in the United Kingdom in return for (1) the liquidation of the Institute's debt of £55,000, (2) lease

of part of the building for 987 years without rent, (3) the acceptance of liability for rates and external repairs.

In 1902 the control of the Institute was transferred from the then existing Governing Body to the United Kingdom Board of Trade. In 1907 an arrangement was made by which the management of the Institute was transferred to the Secretary of State for the Colonies, subject to the responsibility of the Board under the Act of 1902. In 1916 this arrangement was regularized by a further Act, which formally transferred the Institute from the control of the Board to that of the Secretary of State. The position of the Institute was further considered by Parliament in 1925, when the Act by which it is at present governed was passed. This Act laid down a new system of management and transferred to the Institute, as its mineral resources department, the Imperial Mineral Resources Bureau which had been founded in 1917.

Organization.

The Act of 1925 constituted two bodies, viz. the Imperial Institute Trustees and a Board of Governors. The Trustees hold the Imperial Institute building, the endowment fund, and other property and pay over the income of the fund to the Responsible Minister under the Act, who is the Minister in charge of the United Kingdom Department of Overseas Trade. The Trustees consist of the following United Kingdom Ministers *ex officio*: the Lord President of the Council, the First Commissioner of His Majesty's Treasury, the Secretary of State for India, the President of the Board of Trade, the Secretary of the Department of Overseas Trade and three others appointed by the 'Responsible Minister'.

The constitution of the Board of Governors is prescribed in the second schedule of the Act of 1925. The 'Responsible Minister' is chairman and the members include one representative of each of the Dominions and India (in practice the High Commissioners), nine repre-

sentatives of Government Departments of the United Kingdom, and not more than ten representatives of scientific and commercial interests appointed by the 'Responsible Minister'. The Governors meet normally three or four times a year; for the discharge of certain of their functions, however, the Board of Governors have appointed a managing committee of which the Comptroller-General of the Department of Overseas Trade is Chairman. The Committee includes representatives of the United Kingdom Treasury, the Colonial Office, the Crown Agents for the Colonies, and one High Commissioner. Its meetings are usually held once a quarter.

Finance.

The income of the Institute is at present under review. Hitherto it has been made up as follows:

- i. Subscriptions from His Majesty's Governments in the United Kingdom and Dominions and from the Colonial Governments.
- ii. Interest on endowment funds.
- iii. Certain other receipts from private benefactors.

Functions.

The functions of the Institute fall into two groups:

- i. *Intelligence and investigation work.* This covers the technical work of the Institute, which deals with the determination of the quality and uses of Empire raw materials. This branch of the Institute's activity has two main divisions represented by the Plant and Animal Products Department and the Mineral Resources Department, each of which is assisted by a scientific advisory council as well as various technical committees. The advisory councils include the various Dominion High Commissioners, but normally the Dominions are not represented on the technical committees.

Each department is subdivided into an intelligence and investigation section. The former distributes information, mainly through the medium of

various publications, chief of which is the Institute's *Bulletin*; the latter conducts tests and research work in the laboratories of the Institute. The following have been important subjects of research by the Institute: fibres, sericulture, oils and oil seeds, essential oils and resins, hides and skins, tanning materials, paper, minerals, concrete, &c.

The Institute is often able to furnish the Dominion producer with information as to the requirements of the British market.

- ii. *Exhibition Galleries.* The maintenance of exhibition galleries for the display of Empire products comprises the second main function of the Institute. Since 1925 *ad hoc* grants from the Dominions, Colonies, and India amounting in all to £21,000 have enabled these to be extended and rearranged. The number of visitors to the galleries amounted last year to over a million, the majority being school children in organized parties.
- iii. Other departments of the Institute include a library, a statistical department, central registry, and secretariat.

THE OVERSEA MECHANICAL TRANSPORT COUNCIL (2 Wood Street, Millbank, London, S.W. 1)

Origin and Constitution.

For some years prior to the establishment of the Council the Empire Cotton Growing Corporation conducted experiments in regard to the use of mechanical transport in undeveloped territories, where the construction of a branch railway would not be economically justified. When it subsequently became clear that more extensive experiments would be required the Prime Minister of the United Kingdom, after consultation with the Colonial Office, appointed a sub-committee of the (United Kingdom) Committee of Civil Research to examine the whole question. The latter prepared a report recommending a five-year scheme of investigation, which was in essentials acceptable,

and in 1928 the Oversea Mechanical Transport Council was brought into being.

The members of the Council consist of representatives of all the Dominions participating in the scheme, also of India and the Colonial Empire. The Council meets about four times a year. Its function is to maintain connexion between the Directing Committee and the various subscribing Governments. The technical activities of the Council are in the hands of the Directing Committee of five persons nominated by the Secretary of State for the Colonies.

Finance.

It was originally contemplated that the Empire Marketing Board should subscribe £ for £ against contributions received from overseas, and certain Dominions and Colonies as well as India agreed to contribute on this basis. It has not, however, been possible in every case to maintain contributions at this rate.

Since 1928 approximately £35,000 has been expended on technical work, testing, &c. The Council estimate that their work will be finished with the construction and testing of a 30-ton unit, which can be carried out in a period of two and a half years at a cost of £32,000. In the absence, however, of the Empire Marketing Board grant, the finances of this scheme will collapse, unless increased governmental subscriptions are received. Since the Council regards its work and that of the Directing Committee as of an *ad hoc* character, both bodies will disappear simultaneously when the testing of the 30-ton unit has been completed.

Work accomplished.

Hitherto the main outlay of the Council has been on the design and manufacture in close consultation with motor manufacturers in the United Kingdom of a 15-ton unit, in respect of which all patent rights are to be vested in the contributing Governments. The first of these units is now being tried out in the Gold Coast.

THE EMPIRE TIMBERS COMMITTEE (16 Old Queen Street,
Westminster, S.W. 1)

Origin.

The Empire Timbers Committee owes its origin to a suggestion by the Imperial Economic Committee that arrangements should be made for testing Empire timbers. It was appointed in 1929 by the Department of Scientific and Industrial Research and includes representatives of the Dominions, technicians, and trade representatives. The Dominion representatives are nominated by their respective Governments.

Functions.

- i. *Investigation work.* As there is always a considerable waiting list of timbers for testing, the main function of the Committee is to decide questions of priority as between the various applications received from the Dominions and Colonies. The Princes Risborough laboratory works in close co-operation with the Dominions so as to prevent overlapping. The laboratory is also closely allied with the Imperial Institute, but, in order to avoid duplication, it has been arranged that the Imperial Institute should confine itself to testing minor forest products and the Empire Timbers Committee to the testing of timbers.
- ii. *Advisory work.* The Committee helps both to establish markets for new timbers, which the laboratory has proved to be suitable for use in the United Kingdom, and to extend existing markets.

Finance.

The laboratory at Princes Risborough was founded in 1922 (although it did not operate fully until 1925) as a United Kingdom institution for the testing of all well-established timbers, whether of Empire or foreign origin. No fees are charged to Empire Governments, but a charge is made to individual firms for reports on timber submitted by them.

In 1929 the Empire Marketing Board provided a capital grant of £30,000 for increased accommodation, &c., at the laboratory and an annual payment varying from £5,000 to £7,000 to cover the expenditure incurred on the special investigation of new timbers of Empire origin. The work on new Empire timbers carried out for the Empire Timbers Committee represents about 20 per cent. of the total work of the laboratory.

THE IMPERIAL SHIPPING COMMITTEE (Great George Street, London, S.W. 1)

Origin and Constitution.

This Committee, which concerns itself with the development of inter-Imperial sea communications, originated out of a resolution passed by the Imperial War Conference of 1918, but was first appointed in June, 1920.

In addition to the chairman its members consist of three groups.

- i. Representatives (nine in number) of the Governments of the Empire.
- ii. Persons experienced in shipping and commerce. This group consists of five persons, two being shipowners, one a shipbuilder, and the remainder representatives of commerce and industry. New appointments (generally from names selected by representative bodies) are notified to the Committee by the United Kingdom Prime Minister without previous reference to the Dominions.
- iii. A representative of civil aviation. The Imperial Conference of 1930 enlarged the terms of reference of the Committee so as to include 'facilities for air transport' on Imperial ocean routes, and a representative of civil aviation was nominated.

The sub-committees are of an *ad hoc* character recruited from members of the Imperial Shipping Committee. The Committee itself sits at times with assessors for the consideration of technical matters. The secretary is a United Kingdom official lent from the Mercantile Marine Department of the Board of Trade.

The total annual expenses of the Committee are about £2,000, the whole of which is defrayed by the United Kingdom.

Terms of Reference and Functions.

The Imperial War Conference of 1918 passed the following Resolution:

(1) That in order to maintain satisfactorily the connections and at the same time encourage commercial and industrial relations between the different countries of the British Empire, this Conference is of opinion that shipping on the principal routes, especially between the heart of the Empire and the Oversea Dominions, including India, should be brought under review by an inter-Imperial Board on which the United Kingdom and the British Dominions and Dependencies should be represented.

(2) That for this purpose an Imperial Investigation Board, representing the various parts of the Empire, be appointed, with power to inquire into and report on all matters connected with ocean freights and facilities, and on all matters connected with the development and improvement of the sea communications between the different parts of the Empire, with special reference to the size and type of ships, and the capacities of harbours; the Board to include, in addition to representatives of the Governments concerned, persons with expert knowledge of the problems involved, including representatives of the shipping and trading interests.¹

At the 1921 Conference the Report of the Imperial Shipping Committee on Bills of Lading was adopted, and a Resolution was also adopted to the effect that, pending the constitution of a Permanent Committee on Shipping, the existing Imperial Shipping Committee should continue its inquiries. A wider Resolution recommending the constitution of a Permanent Committee under Royal Charter to carry out the duties specified in the Report of the Imperial Shipping Committee of 3rd June, 1921, was negatived.

The Conference of 1923 expressed its appreciation of the work of the Imperial Shipping Committee and confirmed its constitution. The matter was further developed

¹ C.I. 9177, Resolution XXIV, p. 9.

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at the 1926 Conference, and the general Economic Sub-Committee adopted the following Report:

The Sub-Committee, after hearing a statement from the Chairman of the Imperial Shipping Committee and after considering the valuable work which has been done since the Imperial Economic Conference of 1923, as well as the question of future needs, are of opinion that it is desirable that the Imperial Shipping Committee should be continued on its present basis. They recommend the following Resolution for adoption by the Conference:

'The Imperial Conference is of opinion that the work of the Imperial Shipping Committee is of importance to the Empire and that it is desirable to maintain the Committee on its present basis deriving authority from, and being responsible to, the Governments represented in the Imperial Conference.'¹

At the 1930 Conference, in Section III of the Report of the Committee on Economic Co-operation, the work of the Imperial Shipping Committee was commended and its maintenance advocated. Further, the Conference amended the terms of reference of the Committee which now are:

(i) To enquire into complaints from persons and bodies interested with regard to ocean freights, facilities, and conditions in the inter-Imperial trade, or questions of a similar nature referred to them by any of the nominating authorities, and to report their conclusions to the Governments concerned.

(ii) To survey the facilities for maritime transport on such routes as appear to them to be necessary for trade within the Empire, and to make recommendations to the proper authority for the co-ordination and improvement of such facilities with regard to the type, size, and speed of ships, depth of water in docks and channels, construction of harbour works, and similar matters; and in doing so to take into account facilities for air transport on the routes in question.²

The Committee considers questions referred to it by Dominion and Colonial Governments and by private bodies such as Chambers of Shipping. Only in the event of a unanimous application being received from all the Governments in the Commonwealth would the Committee institute an inquiry without first considering whether the

• ¹ *Cmd. 2769*, p. 400.

² *Dominions Office and Colonial Office List*, 1933, p. xxix.

matter in question was within its terms of reference. Such a request, however, would be regarded as constituting an *ad hoc* extension of the terms of reference.

Copies of every report prepared by the Committee are transmitted to each Government of the Commonwealth; reports are published as United Kingdom Command Papers, but only with the consent of the Imperial Government.

IMPERIAL COMMUNICATIONS ADVISORY COMMITTEE (Queen Anne's Chambers, Westminster, S.W. 1)

Origin and Constitution.

The Imperial Communications Advisory Committee had its origin in a recommendation by the Imperial Wireless and Cables Conference, 1928, that a committee should be formed to serve as a link between the projected 'Imperial and International Communications, Ltd.' and the various Governments of the Empire. Its members are appointed by the several Governments of the Empire for an indefinite period.

Finance.

The total expenditure of the Committee amounts to about £7,400 per annum, the whole of this being provided by Imperial and International Communications, Ltd., in accordance with an agreement entered into between the Company and the United Kingdom Treasury on behalf of the various participating Governments. As the main object of the Committee is to protect the interests of telegraph and cable users, it was thought proper that its funds should be derived from the Company rather than from Government contributions.

Functions.

The functions of the Committee are partly advisory and partly executive in character.

The Company must obtain the consent of the Committee for:

- a. The sale or disposal of any of the Company's assets.

- b. Parting with control of foreign corporations.
- c. Any increase in rates.
- d. Withdrawal of any category of message.
- e. Discontinuance of services.
- f. Borrowing amounts of more than £500,000 or at a rate more than 1 per cent. above bank rate.
- g. The issue of new share capital.
- h. The disposal of 50 per cent. of the revenue of Imperial and International Communications, Ltd., in excess of £1,865,000.

The Company are under an obligation to consult the Committee on matters of general policy but not on those of administration and business management. Equally they are obliged to comply with instructions received from the Committee on behalf of any Government of the Empire, provided that the said Government repays out-of-pocket expenses incurred in this connexion.

Thus, while the Committee is advisory on most matters, on others the Company is obliged to abide by its decision. The most important of these obligatory conditions are those which have been laid down by the Committee respecting telegraph rates. The various Empire Governments are kept informed through their representatives of the work of the Committee. Periodical reports are also issued with the prior consent of the Governments concerned.

THE IMPERIAL ECONOMIC COMMITTEE (2 Queen Anne's Gate Buildings, Westminster, S.W. 1)

Origin and Functions.

The Imperial Economic Committee, which was first projected at the Imperial Economic Conference of 1923, took shape in March, 1925, since when its terms of reference have been gradually extended by subsequent decisions of Imperial Conferences. It is purely advisory in character, its present functions having been determined by the Imperial Conference of 1930.

The Committee originally had the following terms of reference:

To consider the possibility of improving the methods of preparing for market and marketing within the United Kingdom the food products of the overseas parts of the Empire with a view to increasing the consumption of such products in the United Kingdom in preference to imports from foreign countries and to promote the interests both of producers and consumers.¹

The Imperial Conference of 1926 approved the work done by the Committee, and adopted the following Resolutions:²

The Imperial Conference is of the opinion that the Imperial Economic Committee should continue on its present *ad hoc* basis with the following general references:

- a. To complete the series of investigations into the marketing of Empire foodstuffs in Great Britain, and while this work is proceeding,
- b. to put forward for the consideration of the various Governments concerned (a) a list of raw materials for possible further marketing enquiries, and (b) suggestions for the preparation and circulation of brief preliminary surveys, as suggested by the General Economic Sub-Committee of the Conference,³ of any branch of Empire trade and marketing; such preliminary surveys, if the Governments concerned so desire, to be followed up by further enquiries.

The Imperial Conference of 1930 commended the work done by the Imperial Economic Committee as set out in its Progress Report to the Conference, and extended its terms of reference in the following Resolution:

I. The Conference is of opinion that the Imperial Economic Committee should continue as at present established, but takes note of the desire expressed by His Majesty's Government in the United Kingdom that their representation should be on the same basis as that of other parts of the Commonwealth.

¹ *Dominions Office and Colonial Office List*, 1927, p. xxvii.

² Imperial Conference, 1926: *Summary of Proceedings*, Cmd. 2768, p. 55.

³ Fourteenth Report of the General Economic Sub-Committee, Cmd. 2769, p. 406.

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II. The Conference is further of opinion that the Chairman of the Imperial Economic Committee should be elected annually by the Committee from among its own members, regard being paid to the desirability of rotation.

III. The Conference considers that the general reference to the Imperial Economic Committee should be as follows:

1. To complete the series of investigations into the marketing of Empire foodstuffs in the United Kingdom;
2. to undertake enquiries into the production for export and marketing in various parts of the world of the raw materials enumerated in the Fifteenth Report¹ of the Imperial Economic Committee;
3. to prepare, at the instance of the Governments of the Commonwealth, preliminary surveys of any branch of Empire trade and marketing such as were contemplated in the recommendation of the Imperial Committee of 1926;
4. to carry out any investigations arising out of recommendations contained in Reports submitted by the General Economic Committee and adopted by the present Conference;
5. to facilitate conferences among those engaged in particular industries in various parts of the Commonwealth;
6. to examine and report on any economic question which the Governments of the Commonwealth may agree to refer to the Committee.²

As a result of the recommendations of the Imperial Committee on Economic Consultation and Co-operation (Skelton Report) the functions of the Committee were enlarged by transferring to it from the Empire Marketing Board the work connected with periodical market intelligence notes and world surveys of production and trade and by giving it authority to make proposals to Governments in regard to other economic services and inquiries, which, it is suggested, should be conducted on a co-operative basis, it being understood that this does not give to the Committee any power to initiate proposals regarding consultation in respect of economic policy.

¹ Bearing reference number 70-232-15: H.M. Stationery Office, 1930.

² Imperial Conference, 1930: *Summary of Proceedings, Cmd. 3717*, p. 51.

Constitution.

At its inception four seats were allocated to the United Kingdom and two to each of the Dominions, India and the Colonies—the members in each case being appointed by their respective Governments. After the Imperial Conference of 1930 the United Kingdom seats were reduced to two.

The Committee was closely allied with the Empire Marketing Board,¹ and on the Committee's recommendation numerous grants were made by the Board including those for the extension of low temperature research, the establishment of a testing station for Empire timbers, &c.

The Committee, like the Executive Council of the Imperial Agricultural Bureaux, elects its own Chairman, appoints its own officers, conducts correspondence with Governments through members of its body appointed by those Governments, is financially autonomous and is not responsible to any one Minister of any one Government.

Finance.

Until the 1st October, 1933, when as a result of the Skelton Report changes were introduced, all the expenses of the Committee were borne by the United Kingdom. The Skelton Committee recommended that the Committee should henceforth be financed by contributions on an agreed basis from the several Governments of the Empire. The total annual sum is £20,000.

THE EMPIRE MARKETING BOARD

Origin.

In 1924 Mr. Baldwin, as Prime Minister, proposed to the House of Commons that £1,000,000 per annum should be allocated for the purpose of financing schemes to promote the sale of Empire produce in the United Kingdom. It was estimated that this sum represented the

¹ The Empire Marketing Board was founded on the recommendation of the Imperial Economic Committee; see p. 187 below.

equivalent cash value of the advantages which would have accrued to the Empire if the preferential duties promised by the United Kingdom Government at the Imperial Conference of 1923 had been carried into effect. In 1925 the newly constituted Imperial Economic Committee was invited to submit suggestions as to the way in which this proposed grant should be expended. In its report dated 29th July, 1925, it recommended the formation of an executive body, which should supervise expenditure on publicity schemes, market research, &c., on behalf of Empire goods, giving priority, however, to the home producer, wherever possible.

After consideration of this report the United Kingdom Government decided to constitute the Empire Marketing Board. The latter actually started work in 1926.

Constitution.

The Board consisted of twenty persons, appointed by the Secretary of State for the Dominions, who was chairman. Of the members, five acted *ex officio*, being Ministers or officials of the United Kingdom Government. The remainder, including Dominion and Colonial representatives, were appointed by the Secretary of State for Dominion Affairs after consultation with the Chairman of the Imperial Economic Committee. In constitutional form the Board was an advisory committee to the Dominions Secretary. The latter, however, never acted without the Board's advice, so that in practice its functions were executive. The Dominions Secretary was the official responsible for the Board to the United Kingdom Parliament.

Organization.

The Board conducted its work through five main committees, namely:

- i. The Research Grants Committee.
- ii. The Marketing Committee.
- iii. The Publicity Committee.
- iv. The Film Committee.
- v. The Agricultural Economics Committee.

In addition to the above the Board established a body known as the Standing Conference of Dominion and Colonial Representatives consisting of appropriate officials from the offices of the various High Commissioners. The object of this body was to ensure co-operation between the Board and the various Dominion agencies in regard to publicity, exhibitions, shopping weeks, the opening of Empire retail shops, &c.

Staff.

The staff of the Board consisted partly of United Kingdom civil servants and partly of persons temporarily engaged.

Functions and Procedure.

The Imperial Economic Committee recommended that 65 per cent. of the proposed Empire Marketing Fund should be spent on publicity and 15 per cent. on research. Actually the Board did not feel bound to adhere to this ratio, and a somewhat larger percentage of income was probably devoted to research. In distributing grants the Empire Marketing Board acted in consultation with the various Empire Governments, and in no instance was a grant made to any research Institute in the United Kingdom or the Empire without the knowledge and approval of the Government concerned.

It was always the policy of the Board to entrust research work to existing government departments or institutions. Independent research establishments were only founded where no suitable institution was already available. While the work in connexion with research grants was undertaken by the officials of the Board, the marketing and publicity duties were delegated to separate organizations.

Finance.

Although the normal income of the Board was fixed at £1,000,000 per annum, the amounts voted by the United Kingdom Parliament from 1928 to 1931 varied between £500,000 and £600,000 in deference to a suggestion

by the Estimates Committee of the House of Commons that the sums in question should correspond to the actual requirements of the Board. At the same time the proviso was made that the balance of the full amount should be available if required, a note to this effect being included in the estimates submitted to Parliament. Wherever possible the Board tried to avoid making grants covering the whole cost of a proposed research scheme. Grants were therefore often fixed on a £ for £ basis. The funds were provided on a separate vote—the Empire Marketing Vote.

Work of the Board.

The work performed by the Board fell under the following heads:

i. *Research.* The Board promoted research both through United Kingdom Government departments and through grants to overseas Governments and institutions. In making such grants it adopted as far as possible the principle that research work should be of interest to more than one Empire country, and to as large a group of producers as possible. The Board maintained close contact with the trades and producers interested.

ii. *Statistics, Market Intelligence, Economic Investigation.* In statistics the Board aimed at filling up gaps in existing services, and in particular in publishing information as to competitive supplies. It published two series of statistical pamphlets: the 'trade and production' series and the 'commodity' series. Its weekly market intelligence notes were of wide use to wholesalers.

The Board undertook surveys of world production and trade in agricultural products of which the Empire is an important producer. It also published surveys of retail markets.

iii. *Market Promotion.* The Board established in 1930 a Marketing Committee which planned and super-

vised schemes for (a) direct approach to bulk purchasers, (b) trade canvassers for particular commodities, (c) establishment of trade committees, to keep close contact with retail trade throughout the country.

- iv. *Publicity.* The Board had to develop a special technique suitable for Government advertising; it used various forms such as press advertising, posters, and exhibitions, as well as films and lectures.

Effect of the Ottawa Conference.

As a result of the new fiscal policy adopted by the United Kingdom and its extension of preferences to Empire products the original motive for the creation of the Board as a substitute for preferential treatment was removed. During the Ottawa Conference the United Kingdom delegation undertook to extend the life of the Board until 30th September, 1933, on the understanding that the question of its future should be fully discussed in the interval by the Committee which it set up on Economic Consultation and Co-operation. That Committee, however, made no recommendations which would lead to the continuation of the Board as a separate organization; and in view of its consequent winding up on the 1st October, 1933, the Committee recommended that provision for some portions of its work be made by other existing agencies, namely, by an extension of the activities of the Executive Council in promoting research, and by the transfer to the Imperial Economic Committee of the preparation of periodical market intelligence notes and world surveys of production and trade.

Present Position (May, 1934).

The following branches of the former work of the Empire Marketing Board are at present being carried on:

- i. Research: thirty-nine research projects were continued, each at the same research institute as before and with the same personnel. Twenty-three of

these projects are being conducted in the United Kingdom, eight in the Dominions and India, and eight in the Colonies. Their approximate annual cost is estimated at £200,000, of which £115,000 will be provided by the United Kingdom and £85,000 by the Dominion and Colonial Governments and by the institutions and industries concerned.

- ii. Periodical market and intelligence notes.
- iii. World surveys of production and trade.
- iv. Film Unit and Film Library (at present undertaken experimentally by the General Post Office).¹

2. MEANS FOR FACILITATING ECONOMIC CONSULTATION AND CO-OPERATION BETWEEN THE GOVERNMENTS OF THE COMMONWEALTH²

Principles underlying Co-operation.

Each of the existing bodies described in the previous section has a defined field of activity and came into being when the need for the services which it performs became apparent to the Governments of the several parts of the Commonwealth. The need for and value of co-operation between them is beyond question, but every step taken towards that end must of necessity be tentative and experimental.

The constitutional development of the Commonwealth culminating in the Statute of Westminster demands, logically, adjustments in the constitution of those bodies which were established previous to such development.

The development of national consciousness in the Dominions has led to the establishment of their own

¹ *Hansard*, 15th March and 2nd May, 1934.

² Summary of the *Report of the Imperial Committee on Economic Consultation and Co-operation* (1933), Cmd. 4335, pp. 73-90. The recommendations of the Report were concerned rather with the organization and finance of existing bodies than with the scope of their activities. An important exception to this was the Empire Marketing Board which was due to come to an end in September, 1933, and the question was therefore uppermost of how to make future provision for its work of publicity and economic and scientific research.

agencies for scientific research, both pure and applied, and for economic inquiry. Co-operation in the work of such bodies is increasingly desirable both between the United Kingdom and the Dominions, and between the Dominions *inter se*, particularly as the degree of specialization in scientific research becomes progressively higher. The work of correlation under inter-Imperial auspices is particularly valuable.

As regards economic inquiry, the following considerations seem fundamental:

- i. The most valuable form of Government work is the collection and arrangement of statistics, the correlation of statistics between countries being essential.
- ii. Governments need expert advisory bodies in modern economic conditions, and co-operation between them on specific problems is very useful.
- iii. Market intelligence services and agencies are the special concerns of individual Governments, but co-operation is not to be excluded.

Methods of Consultation and Co-operation.

The value of co-operation in the field of scientific investigation and economic inquiry is admitted on all hands, but the method by which such co-operation should be effected raises important questions on which there is room for some divergence of opinion. There are, in fact, two angles of approach to the problem:

- i. Development of, and co-operation between, national organizations.

The bulk of economic and scientific research will inevitably continue to be carried out under national agencies and whatever co-operation is required can be achieved through periodic Conferences in which such things as divisions of labour and programmes of work may be arranged and useful personal contacts made. It can also be furthered by the interchange of workers and by travel. Financial co-operation for these purposes will have to be mainly on an *ad hoc* basis.

- ii. Centrally organized collective action.

This angle of approach is complementary and in no sense antagonistic to that just considered and differs from it chiefly.

in emphasis. Collective action is as vitally important as individual action if the countries of the Commonwealth are to keep themselves abreast of world progress in regard not only to production, but also to marketing and distribution, and thus to aid the development of their trade. In particular, there are certain types of scientific investigation which 'can best be carried out on a co-operative basis, and for the conduct of which particular parts of the Empire offer special advantages. Co-operative action of this kind demands co-operative control. Such control would best be exercised by a body with strictly limited powers, representative of the several parts of the Commonwealth and responsible individually and directly to each of those parts. . . . It would be based on a recognition of the complete equality of the participating Governments and, subject to the collective control by those Governments, would enjoy absolute freedom in regard to organization and financial control.¹

The establishment of such a central organization would raise the question of the co-ordination and possibly the reorganization of existing services in order to make them units of the larger scheme. It is not suggested that these services should be absorbed by the new body but merely that they should be grouped under it as autonomous or semi-autonomous committees. The achievement of such a co-ordinating organism with its resultant economy of time and effort might permit of considerably increased overseas representation on the component committees without imposing excessive burdens on the time and convenience of the committee members concerned.

Expenditure could be kept under the direct and absolute control of the respective Governments by a scrutiny of estimates to be prepared by the body and the granting of supplies by the Governments at their discretion on the basis of such estimates.

On such a body the representatives of each Government would, moreover, be in a position to obtain, quickly and directly, the advice from experts which we consider so essential and which in previous paragraphs we have suggested might be sought at periodical conferences.²

* ¹ *Cmd. 4335*, pp. 82-3.

² *Ibid.*, p. 84.

From the point of view of organization, there is much to be said for a consolidation of existing agencies, but the question of the form which this consolidation should take must in the end be determined, not merely by the merits of the scheme in the abstract, but by reference to the support which it would be likely to secure from the people of the Commonwealth. The history of economic co-operation is short, and every stage must be regarded as tentative and provisional.

General Conclusions on Consultation and Co-operation.

The various existing bodies fall into clearly defined fields, and, subject to qualifications regarding the various information bureaux, are related less by the nature of their work than by the character of their controlling bodies.

In the case of the Imperial Shipping Committee and the Imperial Communications Advisory Committee, the field is clearly defined and there is no need to consider amalgamation or centralized control.

As regards bibliographical and information services, the Committee recommends that an anomalous position should be remedied by the transfer of financial and administrative control of the Entomological and Mycological Institutes to the Executive Council of the Imperial Agricultural Bureaux.

In the field of scientific investigation, co-operation may take several forms. *Ad hoc* arrangements may be made by two or more Governments for projects of mutual interest, or, on the other hand, specified research projects of wide Empire interest may be conducted on a general co-operative basis and financed from a common fund. In particular, it is very desirable to make provision for the continuance of such work on the termination of the support hitherto given by the Empire Marketing Fund.

Summary of Principal Recommendations.

As a result of their review of existing bodies and of the means for facilitating co-operation, the Committee made

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recommendations which are summarized in their Report
as follows:¹

(A) SCIENTIFIC INFORMATION SERVICES AND RESEARCH ACTIVITIES

(1) We recommend that the Executive Council of the Imperial Agricultural Bureaux should be entrusted with the supervision of:

(a) The administration and financial control of the eight Imperial Agricultural Bureaux;

(b) the administration and finances of the Imperial Institute of Entomology, and the Imperial Mycological Institute;

(*Note: We recommend that, should it be so desired, there should be constituted also in respect of each of these Institutes a scientific advisory committee to assist the Director on scientific, as opposed to administrative and financial, questions.*)

(c) such research activities in the United Kingdom as the participating Governments may agree should in future be conducted on a co-operative basis.

(2) We recommend that the question of what research activities should in future be carried out co-operatively should be considered at a conference to be summoned as early as possible, consisting partly of the administrative and scientific heads of national research organizations and departments, and partly of such other persons as the several governments may select. We recognize, however, that there are difficulties in the way of the meeting of such a conference in the immediate future and we accordingly recommend that the Executive Council of the Imperial Agricultural Bureaux should be invited by the Governments of the Commonwealth to consider immediately the question of the research activities which should, in its opinion, be conducted on a co-operative basis and to prepare a report for presentation to the conference referred to above. If it is not possible for that conference to meet within a brief period of the completion of its report, we recommend that it should be presented direct to the Governments of the Empire.

(3) We recognize that conferences of the type proposed would be the appropriate body to initiate additional proposals for co-operative action in regard to scientific research, but owing to the difficulties of holding such conferences frequently, we recommend that it should be within the competence of the Executive Council of the Imperial Agricultural Bureaux from time to time to submit proposals on this matter.

¹ Ibid., pp. 91-5.

(B) ECONOMIC INTELLIGENCE AND INQUIRY.

(4) We recommend:

- (a) That the Imperial Economic Committee should continue to discharge its existing functions;
- (b) that that Committee should undertake the following services which should be transferred to it from the Empire Marketing Board:
 - i. periodical market intelligence notes;
 - ii. world surveys of production and trade (including those at present embraced by the 'commodity' series issued by the Empire Marketing Board);
- (c) that it should be within the competence of the Committee to make proposals to Governments in regard to other economic services and inquiries which, in its view, should be conducted on a co-operative basis;
- (d) that to enable the Committee to discharge these functions its terms of reference should be extended as follows:
 - i. In paragraph 3 of the terms of reference the words 'to prepare, at the *instance* of the Governments of the Empire, preliminary surveys . . .' should be amended to read 'to prepare on obtaining the *approval* of the Governments . . .'
 - ii. There should be added the following sub-head authorizing the Committee:
 'to make proposals to Governments in regard to other economic services and inquiries which in its view should be conducted on a co-operative basis, it being understood that this does not give to the Committee any power to initiate proposals regarding consultation in respect of economic policy.'

(5) We recommend that the Imperial Shipping Committee should remain a separate inter-Imperial organization.

(6) We recommend that as from 1st October, 1933, the cost of the services which we propose should in future be conducted by the Imperial Economic Committee and by the Imperial Shipping Committee should be met from a fund to which the several Governments of the Commonwealth should subscribe, and that at the outset from this fund should also be met the cost of such additions to the head-quarters expenditure of the Executive Council of the Imperial Agricultural Bureaux as may result from the adoption of our recommendations in (1) above.

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(7) We recommend that the fund proposed in (6) above should be constituted on the following lines:

<i>Imperial Economic Committee.</i>	<i>£</i>
Present cost of Imperial Economic Committee	5,160
Periodical market intelligence services (including library)	10,720
World surveys and commodities series	<u>4,320</u>
	20,200
<i>Imperial Shipping Committee</i>	2,000
<i>Executive Council of the Imperial Agricultural Bureaux</i>	
Additional contribution for head-quarters	<u>1,800</u>
	<u>£24,000</u>

(8) We recommend that the several Governments should agree to contribute to the above services for a period of three years in the first instance as from 1st October, 1933. After considering the statistics of general trade exports from each part of the Empire to other parts of the Empire, the agricultural production of each part of the Empire, and the benefits likely to be received, we recommend the adoption of the following scale which involves the contributions shown below:¹

	<i>Units of contribution.</i>	<i>Contribution.</i>
United Kingdom and the Colonial Empire	35	8,400
Canada	16	3,840
Australia	14	3,360
India	12	2,880
Union of South Africa	8	1,920
New Zealand	8	1,920
Irish Free State	4	960
Southern Rhodesia	2	480
Newfoundland	1	240

(c) GENERAL RECOMMENDATIONS IN REGARD TO THE ORGANIZATION OF AGENCIES FOR INTER-IMPERIAL CONSULTATION AND CO-OPERATION.

(9) We recommend that the following principles should be observed in regard to the organization of agencies for inter-Imperial consultation and co-operation:

¹ The various Governments have accepted this recommendation and the contributions shown are now being made.

- (a) The complete constitutional equality of the participating Governments should be recognized in the method of appointment to, and composition and organization of, each agency.
- (b) The formal instrument appointing persons as members of inter-Imperial agencies should be issued by each Government concerned.
- (c) Adequate financial provision should be forthcoming. This implies not only sufficient funds but also a reasonable certainty of income over a definite period of years.
- (d) At the same time, there should be careful and periodical examination of the various institutions at Empire conferences suitable for the purpose, as without this assurance Governments could hardly be expected to provide financial support as visualized in (c) above.
- (e) The managing bodies of inter-Imperial agencies should in no way be subject to financial control by the Finance Department of any one Government of the Commonwealth, but over and above regular scrutiny by a suitably constituted finance committee, they should be free to take advantage of the experience of such departments.
- (f) Each inter-Imperial agency should approach the participating Governments directly through the appropriate channel.

We anticipate that such communications would normally take one or other of two main forms. On formal questions, such as the presentation of estimates, communications would be addressed by the secretary of the agency concerned to the Governments concerned. In the case of the Dominions, India, and Southern Rhodesia this would be through the High Commissioner or other official principal representative of those Governments in London, and in the case of His Majesty's Government in the United Kingdom and the Colonial Empire it would be through the appropriate Minister. On more important questions of policy we assume that the representatives on the agency concerned would themselves take steps to obtain the views of their respective Governments.

- (g) As a general rule to which, however, exceptions may at times be necessary, Imperial organizations should serve only those members of the Commonwealth that subscribe to their funds or pay for such services on a fee basis.

3. FURTHER CO-OPERATIVE AND INTER-IMPERIAL BODIES

In addition to agencies for economic co-operation, the following co-operative and inter-Imperial bodies have been established for various purposes:

- a. Departments of Scientific and Industrial Research.
- b. Medical Research Council.
- c. Standing Conference for the Co-ordination of Scientific Research.
- d. Imperial War Graves Commission.

a. SCIENTIFIC AND INDUSTRIAL RESEARCH

Organizations exist in Great Britain and in each of the Dominions for the pursuit of scientific and industrial research.

UNITED KINGDOM

The Department of Scientific and Industrial Research

The Committee of the Privy Council for Scientific and Industrial Research was appointed by Order in Council dated 28th July, 1915, amended by an Order in Council dated 6th February, 1928, to direct, subject to such conditions as the Treasury may from time to time prescribe, the application of any sums of money provided by Parliament for the organization and development of Scientific and Industrial Research. The Committee consists of the holders for the time being of certain Ministerial offices. The Order in Council also appointed an Advisory Council to whom all proposals for researches stand referred. By Charter dated 23rd November, 1916, amended by a supplemental Charter dated 27th April, 1928, the members of the Committee of the Privy Council were created a Body Corporate under the name of 'The Imperial Trust for the Encouragement of Scientific and Industrial Research' to hold and dispose of money and other property for the purposes of the Committee. On 15th December, 1916, a separate Department, having its own Parlia-

mentary Vote, was created for the service of the Committee.¹

The Committee of the Privy Council is constituted as follows:

- Lord President of the Council.
- Secretary of State for Home Affairs.
- Secretary of State for the Dominions.
- Secretary of State for the Colonies.
- Secretary of State for Scotland.
- Chancellor of the Exchequer.
- President of the Board of Trade.
- President of the Board of Education.

Research is carried out in the following subjects: building, chemistry, food investigation, forest products, fuel, radio, road and water pollution. The Department also controls the Geological Survey of Great Britain and the Museum of Practical Geology, as well as the National Physical Laboratory.

Further, under the auspices of the Department, industrial research associations have been organized and research carried on at the joint expense of the members and the Department.

CANADA

National Research Council²

The British Dominions were invited to establish similar organizations in order to bring about co-operation of effort and co-ordination of research throughout the Commonwealth. Acting on this suggestion, the Government of Canada in 1916 appointed a sub-committee of the Privy Council, under the chairmanship of the Minister of Trade and Commerce, to devise and carry out measures to promote scientific and industrial research in Canada. This sub-committee decided to copy the organization adopted in Great Britain and appointed the National Research Council as an advisory body on questions of scientific and technological methods affecting the expansion of Canadian

¹ *Whitaker's Almanack*, 1934, p. 321.

² See *Canada Year Book*, 1931, pp. 990-1; and 1932, pp. 867-70.

industries or the utilization of the natural resources of Canada. The Council was also given charge of all matters which might be assigned to it affecting scientific and industrial research in Canada.

In 1929 organization of the National Research Laboratories, under the direct control of the Council, was commenced at Ottawa. In 1932 a new building which cost approximately \$3,000,000 to construct unequipped and which provides 250,000 square feet of floor space, was formally opened.

For the fiscal year 1932-3 the Council has received an appropriation from the Government of Canada of \$410,000 for current and capital expenditures and \$415,000 for capital expenditures only. In addition, it has received a total of approximately \$20,000 from industry and other sources. Through its associate committee on grain research it directs the expenditure of the interest and part of the capital of a special fund, the balance of which at the end of the fiscal year 1932-3 is expected to be approximately \$160,000.

In addition to the National Research Council the Federal Departments of Agriculture, Fisheries, Interior, and Mines also carry on scientific research while provincial research organizations have been established in Alberta and Ontario, and are provided for in Saskatchewan.

Co-operation with the Department of Scientific and Industrial Research in the United Kingdom. Close relations exist between the Department of Scientific and Industrial Research in Great Britain and the National Research Council of Canada. The Secretary of the Department and the President of the Council were active members of the Committee of the 1930 Imperial Conference which considered Commonwealth Research and declared that 'the framework of scientific co-operation has already been fashioned on what is believed will prove to be an enduring foundation'. The National Research Council of Canada receives ten copies of all reports issued by the Department of Scientific and Industrial Research. In addition, it

receives an annual confidential statement of the research programme of the Department, and a monthly confidential summary which contains abstracts of interim reports prepared in the laboratories as well as abstracts of reports already published elsewhere.

The National Research Council is also a member of three of the industrial research associations organized in consultation with the Department: the British Leather Manufacturers' Research Association, the Wool Industries Research Association, and the Linen Industry Research Association.

Co-operation with other Commonwealth Organizations. The National Research Council regularly receives the reports, bibliographies, &c., published by the several Imperial Agricultural Bureaux, the Imperial Institute, and the Imperial Institute of Entomology.

The Empire Marketing Board: the Empire Marketing Board and the National Research Council joined in supporting the Imperial Research Institute of Parasitology at Macdonald College, Quebec, each organization undertaking to provide \$25,000, over a three-year period.

Another Commonwealth research project the Empire Marketing Board has assisted in Canada is that on cheese-ripening, conducted under the direction of Professor W. Sadler at the University of British Columbia.

The Aeronautical Research Committee of Great Britain: close liaison exists between the officers of the National Research Council engaged in aeronautical research and similar officers in the Air Ministry of Great Britain and the Aeronautical Research Committee of Great Britain.

British Standards Institution: at the Imperial Conference of 1926 the following resolution was passed:

The Imperial Conference, recognizing the advantages of standardization in its widest sense both to producers and to consumers, and appreciating that when it is practicable to adopt standards common to the Empire these advantages are augmented and great benefit results to trade within the Empire and Empire trade

generally, recommends to the favourable consideration of the several Governments of the Empire that they should take steps to promote the further development of standardization, should arrange for the exchange of information with the other parts of the Empire, and, when common standards are possible and mutually advantageous, should co-operate with the other parts of the Empire in regard thereto.¹

Further study of this subject took place at the Imperial Conferences of 1930 and 1932, the latter recommending action along certain specific lines. To facilitate consultation the standard organizations of the Commonwealth are now empowered to communicate directly with each other.

AUSTRALIA

Commonwealth Council for Scientific and Industrial Research²

By the Science and Industry Research Act, 1926, the previously existing Commonwealth Institute of Science and Industry was reorganized under the title of the Council for Scientific and Industrial Research. This Act provides for a Council consisting of:

Three members nominated by the Commonwealth Government.

The Chairman of each State Committee constituted under the Act.

Such other members as the Council, with the consent of the Minister, co-opts by reason of their scientific knowledge.

The three Commonwealth nominees form an Executive Committee which may exercise, between meetings of the Council, all the powers and functions of the Council, of which the principal are as follows: (a) the initiation and carrying out of scientific researches in connexion with primary or secondary industries in the Commonwealth; (b) the training of research workers and the establishing of industrial research studentships and fellowships; (c) the making of grants in aid of pure scientific research; (d) the establishment of industrial research associations in any industries; (e) the testing and standardization of scientific

¹ *Cmd. 2768*, p. 54.

² *Official Year Book of the Commonwealth of Australia*, 1932, pp. 817-20.

apparatus and instruments; (f) the establishment of a bureau of information; and (g) the function of acting as a means of liaison between the Commonwealth and other countries in matters of scientific research.

State Committees have been constituted in accordance with regulations that have been prescribed, and their main function is to advise the Council as to matters that may affect their respective States. A sum of £250,000 was appropriated under the terms of the Act for the purpose of scientific and industrial investigations. Subsequently an additional £250,000 was appropriated for a similar purpose. Under the Science and Industry Endowment Act, 1926, the Government established a fund of £100,000, the income from which is to be used to provide assistance (a) to persons engaged in scientific research, and (b) in the training of students in scientific research. Provision is made for gifts or bequests to be made to the fund, which is controlled by a trust consisting of the three Commonwealth nominees on the Council. In accordance with the Act arrangements have been made to send a number of qualified graduates abroad for training in special fields of work.

NEW ZEALAND

Department of Scientific and Industrial Research¹

The Department of Scientific and Industrial Research owed its foundation in 1926 to the realization of the growing dependence of Dominion industries upon scientific guidance. It was decided to group under this Department a number of scientific services previously under the control of individual departments of State. Such services included the Dominion Laboratory; the Meteorological Office (taken from the Marine Department); the Geological Survey (from the Mines Department); the Dominion Observatory (from the Internal Affairs Department); the Stone

¹ United Kingdom Department of Scientific and Industrial Research: *Report for 1927-8*, Cmd. 3258, p. 178. See also Annual Reports of the New Zealand Department from 1927 onwards: *N.Z. Parl. Papers*, H. 34, for each year.

Testing Laboratory and Geological Advisory Service (from the Public Works Department); and the technical control of the Samoan Observatory (from the External Affairs Department).

The Scientific and Industrial Research Act, 1926, which established the Department, nominated a Council of prominent Dominion business men, scientists, and agriculturists to advise the Government upon matters of research, with a prominent local scientist, Dr. E. Marsden, as its first Secretary. Steps were immediately taken to survey the scientific needs of the Dominion and the facilities available for meeting them. The primary industries and those closely connected therewith called for first attention and, accordingly, investigations were established in connexion with the major problems of dairying, control of noxious weeds, mineral content of pastures, wheat culture, plant breeding, wool production, cool storage, fuel production, forestry, and fisheries. Later extensions of the field include investigations into pig industry problems, flax culture, fruit growing and preserving, treatment of hides and pelts, and radio research, while the latest undertaking of all is the Geophysical Survey of potential gold and oil fields.

The Department has sought to make use of such staff, accommodation, and scientific facilities as were already established, new establishments being set up only in cases where such provision was absent. The direction of the various researches has been delegated to a series of specialist committees each composed of representatives of the industry concerned together with others from interested Government departments and other institutions.

The policy of the Department is that, as far as possible, industries should be encouraged to organize and conduct their own researches in a comprehensive way and ultimately at their own expense. With regard to government grants towards such researches, while public interest necessitates such control as will ensure that these grants are properly spent, it is realized that freedom and flexibility are essential conditions of fruitful research. Grants that

have been made are an earnest of that policy. In every instance where these have been made, members of the industry itself have been entrusted with the major control of the expenditure, the staff, and the programme of the investigation proposed. The Department has also established annual research scholarships in the University Colleges of the Dominion. The official publication of the Department is the *Journal of Science and Technology*, issued prior to 1926 by the Board of Science and Art.

Co-operation with other parts of the Empire. Close liaison is maintained with the United Kingdom Department of Scientific and Industrial Research and its many activities. The Department in New Zealand also acts as a co-ordinating link between the Directors of the eight Imperial Agricultural Bureaux whose head-quarters are centred in the United Kingdom and local correspondents in New Zealand. The various bureaux regularly issue to New Zealand their publications giving details of the researches in progress in all parts of the world, thereby facilitating contact between New Zealand and activities overseas. There is, attached to the Office of the High Commissioner for New Zealand in London, a special Scientific Liaison Officer who maintains close liaison contact with official scientific organizations in the United Kingdom and with any other research institutions in whose activities New Zealand may have interest.

Other Research Institutions in New Zealand

A few of the Government Departments conduct scientific researches independently of the Department of Scientific and Industrial Research. These include the Departments of Agriculture, of Railways, and the Post and Telegraph Department.

In addition, the constituent colleges of the University and the Cawthron Institute pursue extensive scientific investigations, some in conjunction with the Department of Scientific and Industrial Research, and some independently.

SOUTH AFRICA¹

Research is carried out in various fields under three Government Departments:

- i. The Department of Mines and Industries.
 - ii. The Department of Forestry.
 - iii. The Department of Agriculture.
- i. The influence of the *Department of Mines and Industries* is twofold. In the first place, attached to this Department is the Research Grant Board of the Union of South Africa, instituted in 1918. The principal functions of this Board are to advise the Government regarding the encouragement of research within the Union and to administer all State grants in aid of research. It is also the body through which the Union of South Africa is affiliated to the International Research Council, and its organization is utilized for the award of Overseas Scholarships.

In the second place, the Department of Mines and Industries carries out scientific investigations of the greatest possible importance in its own field of the geological survey, mining (including investigations into the promotion of better health and greater safety for miners), mineralogy, metallurgy, and fuel research. The Departmental Laboratory and the Fuel Research Institute are both situated in Pretoria.

ii. The *Department of Forestry* also fosters research, one Division of the Department being entirely devoted to investigations of the problems of silviculture, forest botany, timber production and treatment, fibres, oils, tanning materials, &c.

iii. But the most extensive researches of all are those undertaken by the *Department of Agriculture*, which is divided into five specialist divisions, for Veterinary Sciences and Animal Husbandry, Plant Industry, Chemistry, Economics and Markets, and Agricultural Education and Extension. Of these the first three engage in active scientific

¹ Official Year Book of the Union of South Africa, 1932, and South African Journal of Industries, 1924 onwards.

research, each into the problems associated with its own particular field.

The Veterinary Research Laboratory is situated at Onderstepoort, near Pretoria, and maintains branch laboratories in various other parts of the Union. It devotes itself to problems of animal husbandry and stock diseases. At the Imperial Agricultural Research Conference held in London in October, 1927, it was decided that the Research Institute at Onderstepoort should be one of the Central Research Stations in a chain of research stations throughout the Empire.

The Division of Plant Industry is subdivided into a Botanical Section (Pretoria), a Plant Pathological Section (Pretoria), a Low Temperature Research Laboratory (Capetown), and an Entomological Section (head-quarters at Pretoria and sub-stations in other parts of the Union). The investigations carried out by these divisions, though too numerous to be specified, are of the greatest consequence.

The Department of Agriculture also controls four schools of Agriculture¹ and Experimental Farms together with the Stellenbosch-Elsenburg College of Agriculture of the University of Stellenbosch. Each of these, in addition to being teaching units, is a station for experimental investigation and research.

The Universities. The four universities in the Union play their due part in the encouragement of research, which is recognized as one of the most important of a university's functions. They exhibit, moreover, a certain degree of specialization; thus, only at Capetown and Johannesburg are there Faculties of Medicine; only at Stellenbosch and Pretoria Faculties of Agriculture. Engineering is taught at Johannesburg, Capetown, and Durban; mining engineering at Johannesburg alone.

The South African Institute for Medical Research (Johannesburg). This Institute is mainly concerned with investigations into medical problems relating to public

¹ At Grootfontein (Cape), Cedara (Natal), Potchefstroom (Transvaal), and Glen (Orange Free State).

health and industrial hygiene with particular reference to South African conditions.

Co-operation with other parts of the Empire. Close connexion is maintained through the office of the High Commissioner, London, with the United Kingdom Department of Scientific and Industrial Research and its many activities. An official from South Africa House also represents the Government of the Union on the Executive Council of the Imperial Agricultural Bureaux, thus acting as an official link between the Bureaux and their correspondents in South Africa, to whom the Bureaux issue copies of their publications regularly.

b. MEDICAL RESEARCH COUNCIL

The Medical Research Council was formerly the Medical Research Committee, established in 1913 under the National Health Insurance Act, but was incorporated under its present title by Royal Charter on the 1st April, 1920. It is now under the administrative direction of a Committee of the Privy Council consisting of the Lord President, the Minister of Health (England and Wales), and the Secretaries of State for Scotland, for Dominion Affairs, for the Colonies, and for Home Affairs. The Secretary of the Medical Research Council is *ex officio* Secretary to this Committee.

The Council apply moneys voted by Parliament or received from private sources for the furtherance of medical research.

c. STANDING CONFERENCE FOR THE CO-ORDINATION OF SCIENTIFIC RESEARCH

This Conference was appointed by the Government of the United Kingdom in 1922 and consists of representatives of the Development Commission, Medical Research Council, and Department of Scientific and Industrial Research with the Biological Secretary of the Royal Society. It meets three or four times a year and has for its primary purpose the discussion and co-ordination of 'borderline'

research questions in the fields of agricultural, fishery, medical, and industrial research, which are the respective fields of the three principal bodies constituting the Conference. Since the Imperial Conference, 1926, the High Commissioners for the Dominions and the Colonial and India Offices have been invited to send representatives. The High Commissioner for Canada has not yet, however, taken advantage of this invitation.

d. IMPERIAL WAR GRAVES COMMISSION

The Imperial War Graves Commission was appointed¹ by Royal Charter of 21st May, 1917. The Charter was drawn up and revised after discussion at the Imperial War Conference of 1917. Its powers were extended by supplementary Charters in 1921 and 1930.

The Commission is constituted as follows:

President: H.R.H. the Prince of Wales.

The Secretary of State for War.

The Secretary of State for the Dominions.

The Secretary of State for the Colonies.

The First Commissioner of Public Works.

Persons appointed by the Governments of Canada, Australia, New Zealand, South Africa, and Newfoundland.

The Commission is granted power under the Charters to enable it to purchase land, establish and maintain cemeteries, and all other operations for that object; also to work superannuation, pensions, and insurance schemes. It also has power to appoint sub-committees.

The Committee has been described as 'the first truly autonomous Imperial Administrative Organization'. It is also the first and only example of political, administrative, and financial partnership. It therefore furnishes a model of a certain type of free co-operation by Members of the Commonwealth, and it has been suggested, notably by

¹ Imperial Conference Reports, 1917, 1918, 1923, 1930: *Cd. 8566, Cd. 9177, Cmd. 1987*, and *Cmd. 3717* respectively. See also Annual Reports issued by the Commission.

Mr. S. M. Bruce of Australia, that an Imperial Secretariat should be established on a similar basis.¹

An indispensable condition of such partnership and co-operation is common financial control. This was brought about in the following way. A fund was formed to meet the general expenditure. In each year a demand has been made upon the several Parliaments, and each Parliament has voted its share by way of grant to the Commission. The share or quota of each member country is based upon the proportion which the number of the graves of its dead bears to the total of the whole Commonwealth. It is to be noted that the Commission reports, and accounts, to all the member countries directly and in the same terms. The control is, therefore, a joint one. There is in process of creation an endowment fund which will reach a final total of five million pounds, the income from which is to be used for maintenance in perpetuity of the cemeteries and memorials created by the Commission all over the world. This is vested in three trustees and is accounted for on the general principles mentioned above.

From all points of view this Imperial partnership appears to have worked smoothly and satisfactorily. The period of time has been sufficient to give it a thorough trial and to test its practicability at various conjunctures. The Commission, as the common servant of all the member countries, has proved to be a flexible instrument, its machinery adapting itself readily to various situations as these have arisen. Within the limits of its authority it operates freely in matters of administration, and matters of major policy have been based upon common consent.

The unveiling at Thiepval on 1st August, 1932, of the last War Memorial completes the work of the Commission in the construction of such memorials, and it is sufficiently endowed for the task of maintenance in the future of the memorials and cemeteries for the creation of which it has been responsible.

¹ See p. 227, below.

PART IV

PAST PROPOSALS FOR THE CREATION OR MODIFICATION OF MACHINERY OF CO-OPERATION

1. PAST PROPOSALS FOR A PERMANENT COMMON- WEALTH SECRETARIAT

ON various occasions in the past proposals have been put forward bearing on the question of a Permanent Commonwealth Secretariat. These are:

- a. The Lyttelton Dispatch (1905), in which a proposal was circulated for an Imperial Council, together with a permanent Commission and a Secretariat attached.
- b. The Colonial Conference of 1907, when the question of a permanent Secretariat was discussed.
- c. The Imperial Conference of 1911, when the question of a Standing Committee was discussed.
- d. In 1924, when the Australian Government advocated a permanent Secretariat, in the course of a correspondence initiated by the United Kingdom Government.¹
- e. Before the Ottawa Conference, when Mr. J. H. Thomas received a resolution from the Federation of British Industries and the Trades Union Congress urging the establishment of an Imperial Economic Secretariat, and at the Conference itself, when the existing inter-Imperial bodies were discussed and a Committee was appointed to give further consideration to the question. This Committee sat in London in March and April, 1933.

¹ *Cmd. 2301*, p. 10.

The chief features of each of these proposals may be summarized as follows:

a. The Lyttelton Dispatch, 1905.¹

In April, 1905, Mr. Alfred Lyttelton, Secretary of State for the Colonies, addressed a circular dispatch to the Governments in which he put forward proposals for an 'Imperial Council' and for an ancillary permanent 'Commission' with a Secretariat. The dispatch purposely refrained from defining closely the functions of the proposed Council, and the idea was unfavourably received by Sir Wilfrid Laurier, whose chief concern was for the national autonomy of Canada; it was evidently feared that the Council might tend to acquire executive functions. In view largely of the attitude of Canada the proposal was finally dropped at the Conference of 1907, and the main features of the existing Imperial Conference system were laid down.

b. Imperial Conference Secretariat, 1907.

The proposal for a permanent Secretariat contained in the Lyttelton Dispatch was warmly supported at the 1907 Conference by Mr. Deakin, Prime Minister of Australia. The objects of such a body were stated by him to be, first, the examination of questions and exchange of views preparatory to a meeting of the Conference—'This would not only save time, but would enable us to approach our conclusions with much greater confidence.' Second, the pursuit of any further inquiries regarding resolutions arrived at during a meeting of the Conference. He further suggested that the Secretariat should be subject to the Governments and that

there would be no power in this Secretariat to ask for or direct any action. The Secretariat would be merely an agency for carrying out the instructions of one Conference and for acting as an intermediary at the suggestion of any Prime Minister or any Govern-

¹ For this dispatch and the correspondence that arose out of it, see
Cd. 2785.

ment or Governments in order to prepare for the next Conference or between its meetings.¹

As regards personnel, he suggested that it should be composed mainly of persons new to the public life of Great Britain, with special knowledge of the Dominions; and that it should be appointed by the Conference and attached to one of the Government Departments in London.

The main objections to the proposal were advanced by Sir Wilfrid Laurier on the grounds:

- i. That there was no one to whom the Secretariat could be directly responsible during the intervals between sessions of the Imperial Conference.
- ii. That it might grow in numbers and involve increased expenditure.
- iii. That it might grow in power and interfere with the powers of the Governments, and the basic principle of responsibility of Ministers to Parliament.

Finally, a Resolution was passed of which the following is an extract:

That it is desirable to establish a system by which the several Governments represented shall be kept informed during the periods between the Conferences in regard to matters which have been or may be subjects for discussion, by means of a permanent secretarial staff, charged, under the direction of the Secretary of State for the Colonies, with the duty of obtaining information for the use of the Conference, of attending to its resolutions, and of conducting correspondence on matters relating to its affairs.²

These duties were undertaken thenceforward in the Colonial Office.

c. Proposal for a Standing Committee of the Imperial Conference, 1911.

A considerable discussion of this question took place during the Imperial Conference of 1911. The proposal was put forward by Sir Joseph Ward, Prime Minister of New Zealand, and during the course of the Conference was embodied by Mr. Harcourt in a memorandum pre-

¹ Colonial Conference, 1907: *Minutes of Proceedings, Cd. 3523*, pp. 27-8.

² *Ibid.*, p. v.

pared as a basis of discussion.¹ The Conference of 1907 had recognized the usefulness of holding subsidiary Conferences to deal with special subjects in the intervals between the sessions of the Imperial Conference; the idea of the Standing Committee was to develop this arrangement into something more permanent.

The proposals made may be summarized as follows:

- i. That any matters within the purview of the Imperial Conference which cannot so conveniently be dealt with by subsidiary Conferences *ad hoc* should be referred, with the consent of the several Governments, to a Standing Committee of the Imperial Conference, comprising representatives of the Governments. The Standing Committee would in effect be a subsidiary Conference not limited to one subject, and meeting at more or less regular intervals for the transaction of the business referred to it by the Secretary of State for the Colonies with the assent of the Dominion Governments.² Mr. Harcourt also described it as a 'strengthening and enlarging of the Secretariat in order to secure greater continuity and co-operation in the work between one Conference and another and on any allied questions which may properly come up for consideration as Conference questions'.³
- ii. That the Committee should be an advisory and not an executive body.
- iii. That it should have the power to summon political or permanent heads of Government Departments to any of its meetings at which matters affecting them were being discussed.
- iv. That its personnel should comprise the Secretary of State and the political and permanent Under-Secretaries for the Colonies, together with representatives of each of the Dominions.
- v. That it should deal only with matters of common concern to all members of the Imperial Conference and should undertake consideration of such matters only with the sanction of all the Governments.
- vi. That there should be no voting.
- vii. That its members should not be members of the Imperial Conference when it met.

These proposals were very strongly urged on the Con-

¹ Cd. 5746-1, p. 212.

² Ibid.

³ Cd. 5745, p. 173.

ference by Sir Joseph Ward, who was supported by Mr. Fisher, Mr. Harcourt making it clear that his Memorandum had been prepared in deference to the wish of the New Zealand Government to raise the question, and not because of 'any conscious want on the part of the Home Government'.¹

The discussion of Mr. Harcourt's Memorandum soon revealed difficulties, the chief of which were in relation to the position of the High Commissioners. In the original memorandum it was suggested that there should be on the Standing Committee 'the High Commissioners and other representatives' of the Dominions; specific mention of the High Commissioners was cut out since it was felt that it would be invidious if, in view of such mention, any High Commissioner failed to secure appointment to the Committee. Moreover, it was felt that there were several possible difficulties in the way of appointing High Commissioners: first, that it would mean extending the functions of the officer to those of a consultative authority, which might be unsatisfactory from the point of view of a Dominion Government which had to receive advice from an officer who was under its direction; secondly, that certain High Commissioners had business rather than political qualifications; and thirdly, that it was undesirable to appoint Ministers and High Commissioners to the same Committee.

Sir W. Laurier expressed his real fears of the proposal when he said: 'If the body is to be anything at all, it will try to exercise its own views and impress its own views on the Governments.'² Despite, therefore, an urgent plea by Sir Joseph Ward for this 'bridge between the Conferences' the opposition to the proposal caused it to be dropped.

d. Correspondence with Dominion Governments initiated by the United Kingdom Government.

In 1924 the Labour Government cabled a circular dispatch to all the Dominion Governments in which it raised various questions relating to the Imperial Con-

¹ Cd. 5745, p. 183.

² Ibid., p. 181.

ference and other machinery of consultation.¹ Parts of this correspondence dealt with the question of consultation regarding foreign policy.²

To questions of common concern other than foreign policy the Australian Government replied as follows:

With regard to questions other than foreign policy, my Government is of opinion that the establishment of a permanent Imperial Secretariat responsible to the Prime Ministers of all the self-governing parts of the Empire whose task would be to prepare for the Imperial Conferences, carry out all Secretariat work during the sittings of such Conferences, follow up all Resolutions and decisions arrived at, and keep the Dominions constantly informed of developments between the Conferences, would go a long way towards solving the problem of effective and continuous consultation. This Secretariat would also embrace existing Imperial Committees such as the War Graves and Shipping, and the Economic Committee when established. It would not merely be a connecting link between the individual Dominion Governments and the British Government, but also between the Governments of the different Dominions. At the present time the Secretariat for Imperial Conferences is provided by the British Government together with representatives of the Dominions concerned, but immediately the Conference is over the Secretariat is broken up, and no effective machinery exists for keeping the Dominions continuously informed as to developments or alterations necessitated by changed circumstances. In the opinion of my Government a great improvement would be effected by the establishment of a permanent Imperial Secretariat.³

A change of Government in the United Kingdom intervened, and the suggestion was not pursued.

It should be noted, however, that the Rt. Hon. S. M. Bruce, speaking in the Commonwealth House of Representatives on 27th March, 1924,⁴ made the suggestion that more continuity between Imperial Conferences could be secured by the establishment of a permanent Secretariat on the model of the War Graves Commission. Under the present system the Secretariat is responsible

¹ *Cmd. 2301*, pp. 5-6.

² See Section 3, p. 228, below.

³ Governor-General of Australia to Secretary of State for Colonies, 16th July, 1924, *ibid.*, p. 10.

⁴ *Journal of the Parliaments of the Empire*, vol. v, No. 3, p. 565.

to the Conference as a whole, and also to a British Department. This places the Dominion Governments in a wrong position; the Secretariat should be responsible to the whole of the self-governing parts of the Empire, drawing its finances and personnel from them all. The type of Secretariat proposed would be quite a small body, consisting probably of one representative from each Dominion.

e. *The Ottawa Conference, 1932.*

In 1930 the Trades Union Congress agreed with the Federation of British Industries on certain proposals which they embodied in a memorandum and presented to the Labour Government. The object of the proposals is stated as being 'to promote as full a development as possible of economic relations between the constituent parts of the British Commonwealth'. In February, 1932, the General Council of the Trades Union Congress decided to put forward their proposals again; and on 2nd March Mr. Thomas received a deputation of their representatives who urged that:

A permanent Commonwealth Economic Secretariat should be set up with the duty of investigating economic questions and problems affecting the Commonwealth and preparing the Agenda for economic questions at Imperial Conferences.

During the Ottawa Conference all the existing inter-Imperial bodies were reviewed by the Committee on 'Methods of Economic Co-operation'. As a result the Conference adopted a resolution that a further Committee should be formed to

consider the means of facilitating economic consultation and co-operation between the several Governments of the Commonwealth, including a survey of the functions, organization, and financial bases of the (existing) agencies . . . and an examination of what alterations and modifications, if any, in the existing machinery for such co-operation within the Commonwealth are desirable.¹

¹ Imperial Economic Conference at Ottawa, 1932, *Proceedings, Cmd. 4714*, p. 14.

The South African and Irish Free State Delegations made reservations to this resolution as follows:

South Africa. [Mr. Havenga.] While not wishing to object to the acceptance of the Report of the Committee on Methods of Economic Co-operation, I desire, in order to remove any ground for misapprehension, to record the following reservations on behalf of the Union of South Africa:

1. While not generally averse to the institution of *ad hoc* bodies for economic investigation and preparation, the Union Government will not associate itself with any scheme for the erection of any organization in the nature of a permanent secretariat or preparatory committee to Commonwealth Conferences, whether economic or otherwise.
2. That portion of the Report which introduces the draft resolutions relating to the appointment of a Committee to consider the means of facilitating economic consultation and co-operation must not be read in the sense that the Union Government is committed in principle to give financial support to Commonwealth economic organizations.

Irish Free State. [Mr. Lemass.] I do not object to the adoption of this Report and the accompanying resolutions, but I wish it to be made perfectly clear in the published records of the Conference that the Government of the Irish Free State are not prepared to contemplate the setting up of an Imperial Economic Secretariat or of any similar organ of centralization.¹

2. THE IMPERIAL WAR CABINET²

It is fitting that some account should be given here of the Imperial War Cabinet, a development of very great importance which was designed to meet the emergencies of the Great War. As a constitutional form it did not survive the term of those emergencies; but it nevertheless had great significance both for itself and for the future of the constitutional development of the Commonwealth.

The following extracts from the Reports³ of the War Cabinet illustrate its origin and functions and its connexion with the Imperial War Conference.

¹ Ibid., pp. 14–15.

² See p. 123, above.

³ The War Cabinet: *Report for the year 1917*, Cd. 9005; The War Cabinet: *Report for the year 1918*, Cd. 325.

The outstanding event of the year in the sphere of Imperial Affairs has been the inauguration of the Imperial War Cabinet. This has been the direct outcome of the manner in which all parts of the Empire [have] thrown themselves into the War during the preceding years. Impalpable as was the bond which bound this great group of peoples together, there was never any doubt about their loyalty to the Commonwealth to which they belonged and to the cause to which it was committed by the declaration of war. Without counting the cost to themselves, they offered their men and their treasure in defence of freedom and public right. From the largest and most prosperous Dominion to the smallest island the individual and national effort has been one of continuous and unreserved generosity. It is not within the province of a record, which is essentially concerned with the history of the administration of the United Kingdom, to describe in detail the achievements of the individual Dominions. Such an account, to do full justice, would require a separate record from each Oversea Government of its own internal administration. Surveying the position as a whole, however, great progress has been made during 1917 in the organization both of the man-power and other resources of the Empire for the prosecution of the War. The British Army is now a truly Imperial Army, containing units from almost every part of the Empire, including not only all the Dominions and India, but the West Indies, East and West Africa, and a large number of volunteers from the Malay States, the Straits Settlements, Ceylon, Hong-kong, and other places within and without the Empire. The total contribution of the British Commonwealth to the armies fighting for freedom now is 7,500,000 men. Particulars of the part played in the various military operations in all parts of the globe by the forces from different portions of the Empire will be found in the chapter dealing with the military history of the year.

Similarly in the economic field, every part of the Empire has contributed what it could in manufactured articles, foodstuffs, or raw materials towards the common pool, and the process of establishing public control over the sources of supply has made giant strides. Further reference to this matter will be found in the appropriate chapters later on.

The real development, however, of 1917 has been in the political sphere, and it has been the result of the intense activity of all parts of the Empire in prosecuting the War since August, 1914.

It has been felt for some time that, in view of the ever-increasing part played by the Dominions in the War, it was necessary that

their Governments should not only be informed as fully as was possible of the situation, but that, as far as was practicable, they should participate, on a basis of complete equality, in the deliberations which determined the main outlines of Imperial policy. Accordingly, one of the first acts of the new Government was to send a telegram on December 14th inviting the Dominion Prime Ministers, not to an ordinary Imperial Conference but a special War Conference of the Empire, in the following terms: 'They therefore invite your Prime Minister to attend a series of special and continuous meetings of the War Cabinet in order to consider urgent questions affecting the prosecution of the War, the possible conditions on which, in agreement with our Allies, we could assent to its termination, and the problems which will then immediately arise. For the purpose of these meetings, your Prime Minister will be a member of the War Cabinet.'

It was also felt, in view of the keen enthusiasm which had manifested itself in India for the cause for which the Empire had entered the War, and of the invaluable services which the Indian troops and others had rendered to the common cause, that it was right that India should also be represented at the Conference. A telegram was therefore also sent to the Viceroy of India to send representatives to assist the Secretary of State for India in representing the views and needs of India at the Conference, thus giving India for the first time representation in the councils of the Empire.

These invitations were accepted by all the Dominions as well as by India. In some cases the Prime Ministers were able to come, and brought some of their colleagues as assessors on matters in which they had special experience. . . .

Practical convenience determined that the War Conference should be divided into two parts. On the one side were meetings of what came to be known as the Imperial War Cabinet, which consisted of the Oversea Representatives and the Members of the British War Cabinet sitting together as an Imperial War Cabinet for deliberation about the conduct of the War and for the discussion of the larger issues of Imperial policy connected with the War. On the other side was the Imperial War Conference presided over by the Secretary of State for the Colonies, which consisted of the Oversea Representatives and a number of other Ministers, which discussed non-War problems or questions connected with the War but of lesser importance.

The proceedings of the Imperial War Cabinet, which held fourteen meetings between March 20th and May 2nd, 1917, were

secret. On the 17th May, however, the Prime Minister gave to the House of Commons a short appreciation of the work of the Imperial War Cabinet, from which the following is an extract:

'The Imperial War Cabinet was unanimous that the new procedure had been of such service not only to all its members but to the Empire that it ought not to be allowed to fall into desuetude. Accordingly, at the last session I proposed formally, on behalf of the British Government, that meetings of an Imperial Cabinet should be held annually, or at any intermediate time when matters of urgent Imperial concern require to be settled, and that the Imperial Cabinet should consist of the Prime Minister of the United Kingdom and such of his colleagues as deal specially with Imperial affairs, of the Prime Minister of each of the Dominions, or some specially accredited alternate possessed of equal authority, and of a representative of the Indian people to be appointed by the Government of India. This proposal met with the cordial approval of the Overseas Representatives, and we hope that the holding of an annual Imperial Cabinet to discuss foreign affairs and other aspects of Imperial policy will become an accepted convention of the British Constitution.'

'I ought to add that the institution in its present form is extremely elastic. It grew, not by design, but out of the necessities of the War. The essence of it is that the responsible heads of the Governments of the Empire, with those Ministers who are specially entrusted with the conduct of Imperial Policy, should meet together at regular intervals to confer about foreign policy and matters connected therewith, and come to decisions in regard to them which, subject to the control of their own Parliaments, they will then severally execute. By this means they will be able to obtain full information about all aspects of Imperial affairs, and to determine by consultation together the policy of the Empire in its most vital aspects, without infringing in any degree the autonomy which its parts at present enjoy. To what constitutional developments this may lead we did not attempt to settle. The whole question of perfecting the mechanism for "continuous consultation" about Imperial and foreign affairs between the "autonomous nations of an Imperial Commonwealth" will be reserved for the consideration of that special Conference which will be summoned as soon as possible after the War to readjust the constitutional relations of the Empire. We felt, however, that the experiment of constituting an Imperial Cabinet in which India was represented had been so fruitful in better understanding and in unity of purpose and action

that it ought to be perpetuated, and we believe that this proposal will commend itself to the judgment of all the nations of the Empire.'

In addition, it may perhaps be useful to quote the opinion of one of its Oversea Members, Sir Robert Borden, as to the significance of the Meetings of the Imperial Cabinet. Speaking on 3rd April to the Empire Parliamentary Association, he said:

It may be that in the shadow of the War we do not clearly realize the measure of recent constitutional development . . . the constitutional position which has arisen from the summoning of an Imperial War Cabinet. The British Constitution is the most flexible instrument of government ever devised. It is surrounded by certain statutory limitations, but they are not of a character to prevent the remarkable development to which I shall allude. The office of Prime Minister, thoroughly recognized by the gradually developed conventions of the Constitution, although entirely unknown to the formal enactments of the law, is invested with a power and authority which, under new conditions demanding progress and development, are of inestimable advantage. The recent exercise of that great authority has brought about an advance which may contain the germ and define the method of constitutional development in the immediate future. It is only within the past few days that the full measure of that advance has been consummated.

For the first time in the Empire's history there are sitting in London two Cabinets, both properly constituted and both exercising well-defined powers. Over each of them the Prime Minister of the United Kingdom presides. One of them is designated as the 'War Cabinet',¹ which chiefly devotes itself to such questions touching the prosecution of the War as primarily concern the United Kingdom. The other is designated as the 'Imperial War Cabinet', which has a wider purpose, jurisdiction, and personnel. To its deliberations have been summoned representatives of all the Empire's self-governing Dominions. We meet there on terms of equality under the presidency of the First Minister of the United Kingdom; we meet there as equals; he is *primus inter pares*. Ministers from six nations sit around the Council Board, all of them responsible to their respective Parliaments and to the people of the countries which they represent. Each nation has its voice

¹ i.e. of the United Kingdom alone. *Cd. 9005.*

PAST PROPOSALS FOR THE

upon questions of common concern and highest importance as the deliberations proceed; each preserves unimpaired its perfect autonomy, its self-government, and the responsibility of its Ministers to their own electorate. For many years the thought of statesmen and students in every part of the Empire has centred around the question of future constitutional relations; it may be that now, as in the past, the necessity imposed by great events has given the answer.

The Imperial War Cabinet as constituted to-day has been summoned for definite and specific purposes, publicly stated, which involve questions of the most vital concern to the whole Empire. With the constitution of that Cabinet a new era has dawned, and a new page of history has been written. It is not for me to prophesy as to the future significance of these pregnant events; but those who have given thought and energy to every effort for full constitutional development of the oversea nations may be pardoned for believing that they discern therein the birth of a new and greater Imperial Commonwealth.¹

The second session of the Imperial War Cabinet opened on 11th June, 1918. It was again attended by Prime Ministers and Ministers of Great Britain and the Dominions.

In the representation of India an important and significant change was introduced. Whereas at the previous session India had been represented by the Secretary of State for India, accompanied by three assessors, she was, on this occasion, represented by the Secretary of State for India, the Right Hon. E. S. Montagu, and the Hon. S. P. Sinha, Member of the Executive Council of the Governor of Bengal, who, in accordance with the statement of the Prime Minister in the House of Commons on May 17th, 1917, was deputed to this country as the representative of the people of India. The Maharaja of Patiala also attended the meetings as the spokesman of the Princes of India.

The deliberations of the Imperial War Cabinet are necessarily secret, but it is well known that they were not confined to the all-absorbing military problems, but covered the whole field of Imperial policy, including many aspects of foreign policy and the War aims for which the British Commonwealth was fighting. It is worth noting, in this connexion, that the Oversea Members of the Imperial War Cabinet not only helped to settle the policy to be

¹ *The War Cabinet: Report for the Year 1917*, pp. 5-9.

adopted by the British Government at the session of the Allied Supreme War Council at Versailles in July, but also attended one of the meetings of the Supreme War Council in person.

During this second session certain improvements were also introduced in the actual machinery of the Imperial War Cabinet system. It was felt that the Dominion Prime Ministers should, as his colleagues on the Imperial War Cabinet, correspond directly with the Prime Minister of the United Kingdom whenever they wished to do so.¹ The experience of the past year had also shown the practical inconvenience resulting from the fact that, while the Prime Ministers of the Dominions could only attend the Imperial War Cabinet for a few weeks in the year, matters of the greatest importance, from the point of view of the common interest, inevitably arose and had to be decided in the interval between the sessions. The natural remedy for this defect lay in giving the Imperial War Cabinet continuity by the presence in London of Oversea Cabinet Ministers definitely nominated to represent the Prime Ministers in their absence.²

By 25th November, 1918, the third session of the Imperial War Cabinet had begun to consider the many questions relating to the Peace Settlements. Some account of the representation of the British Empire at the Peace Conference is given elsewhere.³ Subsequently the anticipations of Mr. Lloyd George, Sir Robert Borden, and others were not fulfilled and the Imperial War Cabinet did not transform itself into a permanent part of the British Commonwealth peace-time machinery.

3. PAST PROPOSALS REGARDING THE IMPERIAL CONFERENCE AND METHODS OF CONSULTATION ON FOREIGN POLICY

a. RESIDENT MINISTERS.

The proposal that Dominion Governments should appoint Resident Ministers in London is not a new one; it was mooted as early as 1879 by Sir John Macdonald.

¹ The Imperial War Cabinet consequently passed a Resolution to this effect. See *Minutes of Imperial War Conference, 1918*, Cd. 9177, pp. 155-65. See also p. 1, above.

² The War Cabinet: *Report for the Year 1918*, Cmd. 325, pp. 9-10.

³ See p. 123, above.

In 1911 and 1912 the matter was discussed both at the Imperial Conference and at the Committee of Imperial Defence, and on 10th December, 1912, Mr. Harcourt, Secretary of State for the Colonies, addressed a dispatch¹ on the subject to the Governors-General of Australia and South Africa, and the Governors of New Zealand and Newfoundland. The dispatch stated that the question of representation of the Dominions on the Committee of Imperial Defence had recently been discussed with Mr. (now Sir) Robert Borden during his presence in London, and that he was in favour of appointing a Minister to spend some months annually in London for this purpose.

The dispatch further stated that there was general agreement both at the Imperial Conference of 1911 and at subsequent meetings of the Committee of Imperial Defence that the Dominions should not be represented on the Committee by their High Commissioners, but that Ministers would be most welcome to attend any meetings at which questions affecting the Dominions were under discussion. Finally, the dispatch invited Dominions to send Ministers to London annually for attendance at the Committee and personal consultations with British Ministers on matters of defence and foreign policy, and pointed out that such a course provided opportunities of close consultation without raising any of the difficult problems of Imperial Federation, since the Committee is a purely advisory body without executive authority or power to make decisions on policy, these functions resting with the individual Cabinets and Parliaments.

Canada responded to this invitation by the appointment to London of Sir George Perley, Minister without Portfolio, who discharged the duties of the High Commissioner, and had the authority of the Canadian Government to attend meetings of the Committee of Imperial Defence.

The special circumstances of the War led to the application of the system on a large scale by the formation of the Imperial War Cabinet; and during the Imperial War

Conference of 1918 Mr. W. F. Massey expressed his conviction that the appointment of Resident Ministers in London after the War was the only solution of the difficulty of enabling the Dominions to play an adequate part in the conduct of the affairs of the Commonwealth.

After the termination of the Ottawa Conference Mr. Bruce, who was then an Honorary Minister of the Australian Cabinet, came to London as Minister representing the Commonwealth. Mr. Bruce remained a member of the Australian Cabinet and combined with his new duties those of the High Commissioner, the office of which had fallen vacant in June, 1932. On 7th October, 1933, he resigned from the Cabinet and was appointed High Commissioner for Australia in the United Kingdom.¹

b. PROPOSALS MADE BY MR. BRUCE, 1924

Mr. Bruce, in a speech made to the Commonwealth House of Representatives on 27th March, 1924, referred to the immense importance of the recent Imperial Conference which had framed the general lines of foreign policy. But although a policy which was the right one at the moment might be agreed to at the Imperial Conference, circumstances might change, necessitating a different line of action. That was what created the need for continuous consultation.

He thought that the system of regular information sent out to the Prime Minister was satisfactory up to a point, but there was a difficulty when the atmosphere surrounding a question changed slowly. It was seen—only by the Foreign Secretary possibly—that some changes would take place. The latter would discuss the matter with the Prime Minister and perhaps two or three other Ministers. Eventually the Cabinet considered it. But it might then happen that the Cabinet's decision must be given at once and that it was too late to consult the Dominions. In that regard the present system of consultation was weak. Among suggestions for the remedy were the appointment of a Resident Minister; but the difficulties were at present

¹ See p. 45, above.

insurmountable; when Australia had developed more it might be necessary to have a representative in Britain to deal with foreign affairs, but he would act more as an Ambassador than as a Minister or High Commissioner.

Mr. Bruce also announced that Mr. Leeper had been loaned to Australia by the Foreign Office for six months to put the Foreign Office branch of the Prime Minister's Department on the best possible basis. He thought the number of Australians in the Foreign Office should be increased. It would be a very good opening for men of the type of Rhodes Scholars, who would be very useful in putting the Dominion's views before the Foreign Office.¹

c. CORRESPONDENCE WITH DOMINION GOVERNMENTS INITIATED BY THE UNITED KINGDOM GOVERNMENT, 1924

In 1924 the Labour Government initiated a discussion with the Governments of the Dominions with a view to holding a preliminary inquiry into the system of 'consultation on matters of foreign policy and general Imperial interest'. It opened with a telegram from Mr. Ramsay MacDonald from which the following is an extract:

We [i.e. the Government of the United Kingdom] fully accept . . . [the] necessity for effective arrangements for continuous consultation in all important matters of common Imperial concern, and for such necessary concerted action, founded on consultation, as the several Governments may determine (see Resolution IX of Imperial War Conference, 1917).² We also realize that [the] action to be taken as [a] result of consultation whether at or between Imperial Conferences must be subject to [the] constitutional requirements of each country. But we feel . . . that [the] system in practice has two main deficiencies.

First, it renders immediate action extremely difficult, more especially between Conferences on occasions when such action is imperatively needed, particularly in the sphere of foreign policy.

Secondly, when matters under discussion are subjects of political controversy, economic, or otherwise, conclusions reached at or between Imperial Conferences are liable to be reversed through changes of government.

¹ Commonwealth *Debates*, 2nd Session, 1924, No. 1, pp. 35–42.

² This Resolution is set out on p. 1, above.

Such a state of affairs inevitably leads to ineffectiveness; it also causes disappointment, and doubts are thrown on [the] utility of the whole Imperial Conference system.¹

With regard to the first difficulty Mr. MacDonald suggested the desirability of a further examination of the Treaties Resolution² of the Imperial Conference of 1923. With regard to the second, he stated the growing need for the creation of some workable machinery by which the public opinion of the Commonwealth as a whole might be brought to bear upon the formulation of any policy which concerned the Commonwealth as a whole.

He also touched upon various remedies which had been suggested in the past. One such suggestion was that representation at Imperial Conferences should include members of all political parties; another was that each Government should 'obtain from its own Parliament beforehand a general approval, within sufficiently wide limits, of the attitude to be taken up by its representatives'.³ He expressed his own doubts as to the feasibility of either, but invited the Dominions to express their views on the subject and suggested that 'these problems [be] given preliminary examination in the near future'.

The resignation of the Labour Government shortly after these proposals were made prevented any immediate consideration of the matter, but it is interesting to note that the Imperial Conference in 1926 did in effect carry out Mr. MacDonald's suggestion and review the entire situation.⁴

d. SUGGESTIONS MADE BY MR. COATES, 1928 (Permanent Staff for Foreign and Empire Affairs)

Mr. Coates, speaking in the New Zealand House of Representatives on 24th August, 1928, outlined some suggestions for the gradual development of a permanent staff for Foreign and Empire affairs.

¹ *Cmd. 2301*, p. 5. Since the dispatch took the form of a telegram, the style is unusually cramped and the compiler has added definite articles, &c., in square brackets. ² See p. 131, above. ³ *Cmd. 2301*, p. 6.

⁴ For resolution of the 1926 Conference, see p. 134, above.

He proposed that in course of time officers should be appointed to London to act as Liaison Officers in close touch with the Foreign Office and other Government Departments; that such officers would, in the course of years, work round to different parts of the Empire, and become part of an organization

through which all parts of the Empire could depend upon getting almost at first hand the outlook of the various Dominions; and the representatives of the Dominions in Great Britain could gain a knowledge that would be of great value as to the point of view of the whole Empire . . . and make it a much more simple matter to express the opinion of the Empire on any questions which arose. The system would not bind the Dominions in any way, but it would give the Imperial authorities a much clearer idea of the way in which the people of New Zealand, for instance, looked upon the various international questions that came up for discussion.

The Imperial Government and the New Zealand Government in conjunction were also considering a scheme whereby a number of New Zealand men from the New Zealand University . . . would be selected for employment in the Imperial Colonial Services. . . . It was desired to secure a permanent staff fully acquainted with every part of the Empire and with a knowledge of Foreign Office procedure.¹

¹ *Journal of the Parliaments of the Empire*, vol. x, No. 1, pp. 115-16.

APPENDIX A

THE APPOINTMENT OF GOVERNORS-GENERAL

I. INSTRUMENTS USED IN FORMALLY MAKING THE APPOINTMENT OF THE GOVERNOR-GENERAL OF CANADA

So far as the appointment of a Governor-General is concerned, there are three instruments involved and one ancillary document:

1. The Letters Patent establishing the office, issued under the Great Seal.
- 2a. An ancillary document, the Sign Manual Warrant authorizing the affixing of the above Seal, which must be signed by the King and countersigned by one or more Ministers of the United Kingdom.
2. Instructions to the Governor-General, issued under the Royal Sign Manual and Signet.
3. The Governor-General's Commission issued as in 2.

Certain questions in connexion with the sealing and signing of the above documents arose during the Imperial Conference of 1930, questions that have a wider significance than their relation merely to the appointment of a Governor-General.

The *Summary of Proceedings* of the Imperial Conference, 1930, states:

Having considered the question of the procedure to be observed in the appointment of a Governor-General of a Dominion in the light of the alteration in his position resulting from the Resolutions of the Imperial Conference of 1926,¹ the Conference came to the conclusion that the following statements in regard thereto would seem to flow naturally from the new position of the Governor-General as representative of His Majesty only.

1. The parties interested in the appointment of a Governor-General of a Dominion are His Majesty the King, whose representative he is, and the Dominion concerned.
2. The constitutional practice that His Majesty acts on the advice of responsible Ministers applies also in this instance.
3. The Ministers who tender and are responsible for such advice are His Majesty's Ministers in the Dominion concerned.
4. The Ministers concerned tender their formal advice after informal consultation with His Majesty.
5. The channel of communication between His Majesty and the Government of any Dominion is a matter solely concerning His

¹ See p. 10, above.

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Majesty and such Government. His Majesty's Government in the United Kingdom have expressed their willingness to continue to act in relation to any of His Majesty's Governments in any manner in which the Government may desire.

6. The manner in which the instrument containing the Governor-General's appointment should reflect the principles set forth above is a matter in regard to which His Majesty is advised by his Ministers in the Dominion concerned.¹

The sixth clause deals with the questions of form. It should be noted that the word 'instrument' is singular, and consequently by strict interpretation 'the instrument' covering the Governor-General's appointment would mean the Commission. It is contended in some quarters that such an interpretation would defeat the whole intention of the clause, and that, therefore, it should be interpreted as applying to all three of the instruments concerned, namely, the Letters Patent, Instructions, and the Commission, together with such ancillary instruments as might be used. The reason for this broader interpretation is said to be based upon the discussions that took place at the Conference.

If this interpretation is correct, it is a matter for the Canadian Government to determine whether in respect to Letters Patent constituting the office of Governor-General the Great Seal of the Realm should be used, or the Great Seal of Canada. It is equally for the Dominion Government to determine in connexion with the Instructions whether the Signet should be used or whether, again, the Great Seal of Canada. There is, here, a further alternative available, namely the acquisition by the Secretary of State for External Affairs of a facsimile of the Signet, which is the King's personal seal.

First, then, as to the Letters Patent. When Lord Bessborough was appointed in February, 1931, the alternatives according to this interpretation of the Report of the Imperial Conference of 1930 were:

- i. That the Great Seal of the Realm be used as previously.

Arguments for this course were:

- i. Convenience and ease in administration.

- ii. It maintained the legal and administrative traditions of the past.

- iii. There was now no longer any possibility of misunderstanding as to who bore the responsibility of affixing the Seal. In order

¹ *Cmd. 3717*, p. 27.

to make the existing constitutional position perfectly clear, however, the Warrant might itself contain a recital as to the authority on whose advice the King has acted, or the Warrant might be countersigned by a Dominion Minister.

- iv. It would emphasize the fact that what was once the Great Seal of the United Kingdom is now the Great Seal of the Realm. In that sense it provided a unifying element which could not be considered an infringement of the status of the Dominions.
2. That the Great Seal of Canada be used instead of the present Great Seal of the Realm.

Such use might be authorized in one of two ways:

- i. Merely by a formal letter from the Canadian Government to the King. The Irish Free State adopted this method in connexion with the Ratification of the Commercial Treaty between that Dominion and Portugal. They transmitted a letter to their High Commissioner for submission to the King, requesting His Majesty to sign the Instrument of Ratification which is sealed with the Great Seal of Ireland. This procedure, of course, marked a distinct departure from custom.
- ii. By Royal Warrant, countersigned by a Dominion Minister.

If this course had been adopted, it might have been advisable by appropriate action to reserve the Great Seal of Canada for important Acts of State, which would require such a Royal Warrant; and not to use it, as at present, for a multitude of unimportant proceedings. A new Government Seal for such minor matters might have been required.

Second, as to Instructions. Granting again the validity of a broad interpretation of the report of the Imperial Conference of 1930, the question in 1931 was whether, in the case of the Governor-General's Instructions, Canada should use the Great Seal of the Dominion or His Majesty's Sign Manual and Signet. This latter seal, which had been used under previous procedure, was in the sole possession of United Kingdom Secretaries of State.

Third, as to the Commission. The only difficulty concerning the Commission was in respect to countersignature. It should not be countersigned by a Minister of the United Kingdom. The Commission should bear either no countersignature at all or that of a Dominion Minister.

The procedure actually followed on the appointment of Lord Bessborough was as follows:

The Commission, which was countersigned by Mr. Bennett,

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referred in Clause 2 to the Letters Patent of 15th June, 1905. This enabled the Governor-General, as one of his first official acts after having been sworn in, to issue the new Letters Patent which the changed constitutional conditions of the Dominion required. These Letters Patent were passed under the Great Seal of the United Kingdom, now termed the Great Seal of the Realm. The Statute prescribing the use of the above Great Seal required that the Royal Warrant authorizing its application should be countersigned by the Lord Chancellor or by one of His Majesty's Principal Secretaries of State or by two of the Commissioners of His Majesty's Treasury. This procedure was followed, but a preamble was inserted in the Warrant indicating that the action was being taken at the request of, and upon the responsibility of, the Prime Minister of Canada.

As far as the Instructions were concerned they were issued under the Royal Sign Manual and Signet, a Seal which does not require countersignature.

The Contents of these Instruments

The contents of the Instruments of 1905 had become anomalous by 1931 owing to the constitutional development of the Commonwealth. Certain of these anomalies were removed in 1931, others still remained.

I. THE LETTERS PATENT.

The second paragraph of Section 1 of the Letters Patent of 1905 reads:

And we do hereby authorize and command Our said Governor-General and Commander-in-Chief (hereinafter called Our said Governor-General) to do and execute, in due manner, all things that shall belong to his said office, and to the trust we have reposed in him, according to the several powers and authorities granted or appointed him by virtue of 'The British North America Act, 1867', and of these present Letters Patent and of such Commission as may be issued to him under Our Sign Manual and Signet, and according to such Instructions as may from time to time be given to him, under Our Sign Manual and Signet, or by Our Order in Our Privy Council, or by Us through one of our Principal Secretaries of State, and to such laws as are or shall hereafter be in force in Our said Dominion.

The anomalies in this paragraph were removed in 1931 by the deletion of the italicized clause.

2. THE INSTRUCTIONS.

Preamble. The same anomaly in the preamble of the Instructions of 1905 was removed in 1931 by the deletion of the same

THE APPOINTMENT OF GOVERNORS-GENERAL 235
clause—*Or by Our Order in Our Privy Council or by Us through one of Our Principal Secretaries of State.*

Section I. The second paragraph of Section I of the Instructions of 1905 reads:

Our said Governor-General, and every other officer appointed to administer the Government of Our said Dominion, shall take the Oath of Allegiance *in the form provided by an Act passed in the Session holden in the thirty-first and thirty-second years of the Reign of Her late Majesty Queen Victoria intituled ‘An Act to Amend the Law relating to Promissory Oaths’.*

The italicized part of this section was removed in 1931 and the following substituted: ‘in the form following: “I do swear that I will be faithful and bear true allegiance to His Majesty King George, His heirs and successors, according to law. So help me God!”’

Section IV. Section IV of the Instructions of 1905 reads:

Our said Governor-General is to take care that all Laws assented to by him in Our name, or reserved for the signification of Our pleasure thereon, shall, when transmitted by him, be fairly abstracted in the margins, and be accompanied, in such cases as may seem to him necessary, with such explanatory observations as may be required to exhibit the reasons and occasions for proposing such Laws; and he shall also transmit fair copies of the Journals and Minutes of the proceedings of the Parliament of Our said Dominion, which he is to require from the clerks, or other proper officers in that behalf, of the said Parliament.

Though this might, at first glance, appear to be anomalous, it remained unchanged in 1931, the view of the Canadian Government being that it was, in fact, consistent with the constitutional situation as it exists to-day under Sections 55, 56, and 57 of the British North America Act. These sections, which provide for the reservation and disallowance of Dominion legislation, still remain part of the Constitution of Canada, for at the request of Canada the Statute of Westminster specifically stated that nothing in it should ‘be deemed to apply to the repeal, amendment, or alteration of the British North America Acts, 1867 to 1930’. Until these sections are changed the contention of the Government was that the Instructions to the Governor-General should indicate to him how they are to be carried out.

Section V. The first part of Section V of the Instructions of 1905 reads:

And We do further authorize and empower Our said Governor-General, as he shall see occasion, in Our name and on Our behalf when any crime or offence against the Laws of Our said Dominion has been committed for which the offender may be tried therein, to grant a pardon to any

accomplice, in such crime or offence, who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders if more than one; and further, to grant to any offender convicted of any such crime or offence in any Court, or before any Judge, Justice, or Magistrate, within Our said Dominion, a pardon, either free or subject to lawful conditions, or any respite of the execution of the sentence of any such offender, for such period as to Our said Governor-General may seem fit, and to remit any fines, penalties, or forfeitures which may become due and payable to Us. *Provided always, that Our said Governor-General shall not in any case, except where the offence has been of a political nature, make it a condition of any pardon or remission of sentence that the offender shall be banished from or shall absent himself from Our said Dominion.*

In 1931 the italicized sentence, being incompatible with the new status of the Dominion, was omitted.

The rest of Section V remained unchanged. It reads:

And We do hereby direct and enjoin that Our said Governor-General shall not pardon or reprieve any such offender without first receiving in capital cases the advice of the Privy Council for Our said Dominion, and in other cases the advice of one, at least, of his Ministers; *and in any case in which such pardon or reprieve might directly affect the interests of Our Empire, or of any country or place beyond the jurisdiction of the Government of Our said Dominion, Our said Governor-General shall, before deciding as to either pardon or reprieve, take those interests specially into his own personal consideration in conjunction with such advice as aforesaid.*

The question arises whether the italicized clauses in this part should not also have been omitted. In one sense their provisions do not detract from the autonomy of the Dominion, for the Governor-General is not instructed to refer the matter to His Majesty's Government in the United Kingdom. Nevertheless they appear to impose anomalous limitations on responsible government for they imply that the Governor-General may, in certain circumstances, act contrary to the advice given him by his Ministers, which it is not to be assumed a Governor-General would do.

Section VI. The anomaly in Section VI of the Instructions was removed in 1931. The Instructions of 1905 state that the Governor-General shall not leave the Dominion without permission obtained under the Sign Manual and Signet or '*through one of Our Principal Secretaries of State*'. This clause was removed in 1931 and the following substituted: '*through the Prime Minister of Our said Dominion*'.

3. THE COMMISSION.

The form of Commission of 1905, leaving aside the question of countersignature, did not require any alteration.

**4. NOTE ON THE APPOINTMENT OF THE GOVERNOR-GENERAL
OF SOUTH AFRICA**

In accordance with the now universal practice, the Governor-General is as far as may be 'constitutional King' in the Union, advised in all things by his Ministry and in no sense representative of His Majesty's Government in the United Kingdom. It has been well understood since the Great War that the Union Ministry would be consulted in the selection of the Governor-General, but since the Imperial Conference of 1930 the Prime Minister of the Union has had the right to make a submission direct to His Majesty.

Letters Patent are still issued under the Great Seal of the Realm, the United Kingdom Ministers acting at the request of the Union Ministry. The Union as yet has neither its own Great Seal nor a facsimile of the Signet, though it will have its own Great Seal shortly.

The Governor-General's Instructions have not been modified in spite of the changes introduced by the Imperial Conferences of 1926 and 1930.

No alterations have been made in the terms of the Governor-General's Commission.

It may be asked whether the maintenance of the Royal Instructions issued before Dominion status had evolved to its present stage is consistent with that status and with the position of the Governor-General as local head of a Dominion. If such instructions were issued on the advice of the Dominion Ministry the possible objection would not arise.

**5. NOTE ON THE APPOINTMENT OF THE GOVERNOR-GENERAL
OF THE IRISH FREE STATE**

Article 3 of the Treaty of 1921 provided that 'the representative of the Crown in Ireland shall be appointed in like manner as the Governor-General of Canada and in accordance with the practice observed in the making of such appointments'. The meaning of this phrase had been authoritatively interpreted in a letter addressed to the Chairman of the Irish Peace Delegation by the British Prime Minister, Mr. Lloyd George, on 13th December, 1921, to the effect that

this means that the Government of the Irish Free State will be consulted so as to ensure a selection acceptable to the Irish Government before any recommendation is made to His Majesty.¹

¹ Keith (A. Berriedale): *Speeches and Documents on the British Dominions, 1918-31*, p. 101.

In the Irish Constituent Assembly it was urged that the actual position should be expressly stated in the Constitution, and that instead of a reference to Canadian practice an express provision should be inserted to the effect that the Representative of the Crown was to be appointed with the assent of the Executive Council. This amendment was wisely resisted by the Provisional Government on the ground that the reference to Canadian constitutional practice rendered the provision more elastic, since, if Canada were to attain the power of electing the Governor-General, the Free State would by implication benefit from that advance, while the insertion of a provision stereotyping the actual practice would preclude any such progress.

Similarly the Government defended the adoption of the title Governor-General on the ground that the term had 'an accepted signification with known functions and known limitations'. In the event it was not Canadian but Irish practice which led the advance to a new mode of procedure in the making of the appointment. Previously to the establishment of the Free State the initiative in making the selection of a Governor-General lay with the British Government, and the Dominion concerned had no power to interfere. Without exception local nominees had been ignored, and members of the Royal House or distinguished British soldiers or statesmen had been appointed to these positions. In the case of the Free State it was apparently recognized by all parties concerned that no such appointment could be made, and, for the first time, a distinguished local political figure, Mr. Timothy M. Healy, K.C., was chosen, a selection clearly inspired if not definitely requested by the Irish Executive.

The selection as his successor in 1929 of an actual servant of the Free State Government, Mr. James McNeill, the High Commissioner of the Free State in London, proved that this new procedure had come to stay and that the Irish Government had secured a decisive voice in the appointment. This was officially recognized by the rules laid down in the following year by the Imperial Conference (1930), which provided that the appointment is to be made by the King on the exclusive advice of the Dominion Cabinet concerned, tendered without any intervention on the part of the British Government, and that, similarly, the Dominion Government is the competent authority to draw up the instrument containing the appointment. The full effect of this new procedure became apparent in October, 1932, when it was announced that, in accordance with advice tendered to His Majesty by Mr. De Valera,

the new President of the Free State Executive Council, the King had approved of Mr. McNeill relinquishing his office as Governor-General.

The provisions of the Free State Constitution deprive the Governor-General of any discretionary scope. In the legislative sphere he is invested with the formal authority of convening and concluding the sessions of Parliament, but the dates both of the opening and closing are to be fixed by the Dáil. On him is conferred the power to signify the Royal Assent to the Acts passed by the Legislature, but he is required to exercise it in accordance with Canadian 'law, practice, and constitutional usage', which divests it of all discretionary content. Similarly, his powers in the executive domain are deprived of all but formal significance. Not only is the exercise of his authority confined in general terms within the limits of Canadian practice and constitutional usage, but each function is subjected to a restrictive interpretation which renders it purely formal. He is empowered to appoint an Executive Council 'to aid and advise in the Government of the Irish Free State', but his choice of the President or Prime Minister is fixed by the formal nomination of the Dáil, or House of Commons, and that of the other Ministers by the nominations of the President. No power of discretion, however limited, such as even republican constitutions vest in the head of State in connexion with the formation of a new administration, is conceded. In the exercise of the crucial power of dissolution, where Dominion practice, at the time the Constitution was enacted, still allowed the holder of the office a certain measure of discretion, he is deprived of every vestige of influence by an express provision denying to a defeated ministry the power to advise a dissolution.

With regard, finally, to his position as official intermediary between the Free State and the British Government, Irish practice has from the beginning tended to divest this aspect of his function of all but formal significance. In this sphere, too, authoritative approval of the Irish interpretation of the character of the office was sought and obtained at the Imperial Conference of 1926, which declared that it was

an essential consequence of the equality of status existing among the Members of the British Commonwealth of Nations that the Governor-General of a Dominion is the representative of the Crown, holding in all essential respects the same position in relation to the administration of public affairs in the Dominions as is held by His Majesty the King in Great Britain, and that he is not the representative or agent of His Majesty's Government in Great Britain.

Here again, as in the adoption of the new procedure for the appointment of the Governor-General and in the elimination of the restrictions on the legislative power of the Dominions, the insistence of the Free State on a precise definition of the constitutional implications of its sovereign status produced a formal fixation of the new conventions of the Commonwealth as a whole. The position of the Governor-General, as it emerges from the restrictive provisions of the Free State Constitution and the formal declarations of the two Imperial Conferences of 1926 and 1930, is in all but name that of the head of an autonomous State. He is neither the nominee nor the agent of the British Government, but a Free State citizen nominated by the Irish Cabinet. His powers are exclusively formal. The effect is that executive authority is concentrated in a larger measure than in any republican system in the Cabinet and its President, who is virtually both President and Prime Minister.

APPENDIX B

NOTE ON THE STATUS OF HIGH COMMISSIONERS

THE Status of High Commissioners was discussed at the Imperial Conference of 1923,¹ and as a result the Secretary of State for the Colonies made a statement in answer to a question in the House of Commons on 29th July, 1924.²

He said that His Majesty had been pleased to direct that the High Commissioners of the Dominions and of India should be given precedence on ceremonial occasions according to the following principles:

- A. When British or Dominion Ministers, being at the time members of their respective Cabinets, are present, the High Commissioners should take precedence immediately after them; this is subject to the qualification that the High Commissioner should not, on any occasion, be given a higher place than that accorded by the Table of Precedence to Secretaries of State;
- B. When no members of the British or Dominion Cabinets are present, the High Commissioners should take precedence immediately after that accorded by the Table of Precedence to Secretaries of State.

Following on discussion at the Imperial Conference of 1930³ it was announced on 27th January, 1931, that His Majesty had been pleased to direct that the High Commissioners for the Dominions and India should, on all ceremonial occasions (other than those when Ministers of the Crown from the respective Dominions were present) rank immediately after Secretaries of State.⁴

¹ *Cmd. 1987*, p. 17.

² *Journal of the Parliaments of the Empire*, vol. v, No. 4, p. 686.

³ *Cmd. 3717*, pp. 30-1.

⁴ *London Gazette*, 27th January, 1931.

APPENDIX C

TREATIES INVOLVING MILITARY COMMITMENTS BINDING ON INDIVIDUAL MEMBERS OF THE BRITISH COMMONWEALTH OF NATIONS

THE following is a list of Treaties involving military commitments binding on individual Members of the British Commonwealth of Nations:

a. On the United Kingdom:

- i. Alliances with Portugal: 1373, 1386, 1660, 1661, 1703,
and 1815.
- ii. Various engagements with Arab chiefs in the Persian Gulf,
1853, 1868.
- iii. International Convention respecting the non-fortification
and neutralization of the Aaland Islands, 1921.
- iv. Obligation to defend Egypt, arising from the Declaration of
1922 concerning the Status of Egypt.
- v. Straits Convention, 1923.
- vi. Locarno Treaty, 1925. (The Treaty of Mutual Guarantee
between Germany, Belgium, France, Great Britain, and
United States, 16th October, 1925.)
- vii. Treaty of Alliance with Iraq, 1930.

*b. Obligations arising from Article 22¹ of the Covenant of the League,
and binding on the following as Mandatory Powers:*

- i. On the United Kingdom, in respect of Palestine, Trans-
jordania, Tanganyika, Togoland, and the Cameroons,
and, jointly with Australia and New Zealand, in respect
of Nauru.
- ii. On Australia, in respect of New Guinea and adjacent islands
south of the Equator.
- iii. On New Zealand, in respect of Samoa.
- iv. On South Africa, in respect of South-West Africa.

¹ 'The Mandatory must be responsible for . . . the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of territory . . .' (Art. 22, Covenant of the League of Nations).

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